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In the matter of:

MUR No:
2016 MAR 16 PM 1:26

Christopher Van Hollen, Jr.
United States House of Representatives
1707 Longworth House Office Bldg.
Independence Ave., SE
Washington, DC 20515

OFFICE OF GENERAL
COUNSEL

Democracy 21
2000 Massachusetts Avenue, NW
Washington, DC 20036

The Campaign Legal Center
1411 K St. NW, Suite 1400
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MUR # 1024

COMPLAINT[†]

I. Pursuant to 52 U.S.C. § 30109(a)(1), the Cause of Action Institute and its Executive Director, Daniel Z. Epstein (collectively "Complainants"), bring this Complaint before the Federal Election Commission ("FEC") seeking an immediate investigation and enforcement action against the above-named Respondents for violations of the Federal Election Campaign Act of 1971 ("FECA"), as amended, and FEC regulations thereunder.

[†] Complainants support the right of tax-exempt organizations to provide *pro bono* legal services on matters of public interest and in furtherance of their exempt purposes. They understand that the FEC administers FECA consistent with rules of the Internal Revenue Service, which recognize the tax-exempt status of public interest law firms and their right to litigate matters that implicate the political process because the purpose of such groups "is to provide [representation] to individuals in cases involving civil rights or individual liberties guaranteed by the United States constitution" and because of the "longstanding recognition of the importance of such rights and liberties and the fact that securing such rights for each individual is of sufficiently broad public concern that their defense promotes the social welfare." Internal Rev. Serv., The Concept of Charity at 24, 1980 EO CPE Text, available at <https://www.irs.gov/pub/irs-tege/eotopicb80.pdf>; see also *id.* at 25 ("[T]he charitability of [Public Interest Law Firms] rests . . . upon the fact that they provide representation to members of the community in cases which present issues of significant importance to the public but which, because of the lack of economic feasibility, would not usually be handled by the traditional law firm."); Rev. Rul. 73-285, 1973-2 C.B. 174 ("Section 1.501(c)(3)-1(d)(2) of the Income Tax Regulations defines the term 'charitable' as including the promotion of social welfare by organizations designed to defend human and civil rights secured by law."). However, the Internal Revenue Code and IRS regulations, consistent with FECA and FEC regulations, prohibit 501(c)(3) organizations from participating in campaigns on behalf of, or in opposition to, any candidate for public office. As explained herein, the *pro bono* legal services in this matter were of direct benefit to and supported the political campaigns of a candidate for federal office, and they were not provided to vindicate a constitutional right or any other human or civil right secured by law. To the contrary, the *pro bono* legal service outlined herein were in support of a statutory interpretation designed—as the intervenors-appellants Center for Individual Freedom and Hispanic Leadership Fund argued in *Van Hollen v. FEC*, Nos. 15-5016 & 15-5017 (D.C. Cir.)—to inhibit or chill free speech rights. It is therefore appropriate that these *pro bono* legal services be investigated and the appropriate sanctions for any violation of FECA be applied.

2. As set forth below, during the last five years and continuing to date, Respondent Rep. Van Hollen received, and Respondents Democracy 21 and The Campaign Legal Center (among others) provided, in-kind contributions in the form of *pro bono* legal services. The receipt and provision of these contributions were in violation of applicable limitation and prohibition requirements, and they were not disclosed as required by FECA.

Background

3. Respondent Christopher Van Hollen, Jr. (D-Md.) is a Member of the United States House of Representatives. Since at least 2010, following the Supreme Court decision in *Citizens United v. FEC*, 558 U.S. 310 (2010), he has presented himself as a champion of campaign finance reform and a candidate for federal office who supports and promises to work for greater transparency in the reporting and disclosure of those who exercise their First Amendment rights by contributing to political campaigns and candidates. Rep. Van Hollen has made the issue of more donor disclosure a centerpiece of his policy initiatives and campaign rhetoric.¹

¹ See, e.g., *Representative Van Hollen on Campaign Finance Disclosure*, C-Span, July 24, 2012, <http://goo.gl/TwYKxz>; Alina Selyukh & Deborah Charles, *Secret donors should be U.S. campaign issue: lawmaker*, Reuters, June 26, 2012, <http://goo.gl/paOKhP> (discussing Van Hollen and the DISCLOSE Act); Josh Israel, *EXCLUSIVE INTERVIEW: Rep. Chris Van Hollen On Campaign Finance, Election Reform*, ThinkProgress, Nov. 21, 2012, <http://goo.gl/bfv1av> (noting that Van Hollen has "become the leading force in the U.S. House of Representatives for campaign finance reform" and "the chief advocate for greater transparency for outside groups ... that keep their donors secret"); Press Release, Chris Van Hollen, *Van Hollen Statement on Outside Secret Money Spent This Election Cycle* (Nov. 5, 2014), <https://goo.gl/aHhpVr>; Press Release, Chris Van Hollen, *Van Hollen: Bill isn't About the First Amendment, it's About Allowing Secret Money in Campaigns* (Feb. 26, 2014), <https://goo.gl/2wXOmr> (quoting speech on the floor of the House of Representatives); Press Release, Chris Van Hollen, *Van Hollen on CNN: Voters Have Right to Know Who is Spending Millions on Campaigns* (Apr. 19, 2012), <https://goo.gl/goL06J> (providing transcript of CNN interview); Press Release, Chris Van Hollen, *Van Hollen Files Lawsuit Challenging FEC Regulations* (Apr. 21, 2011), <https://goo.gl/jLk7sd> (describing policy of pursuing increased donor disclosure in both Congress and the courts); Press Release, Chris Van Hollen, *Ruling in Van Hollen v. FEC is a Victory for Democracy* (Nov. 25, 2014), <https://goo.gl/ErYva4> ("In light of the record level of outside secret money funneled into the recent elections, this decision will greatly improve the much needed transparency of 'electioneering communications' that voters deserve in determining who is trying to influence their votes.").

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4. During the last several years, for example, Rep. Van Hollen repeatedly sought to advance the so-called DISCLOSE Act, which would increase the disclosure obligations of corporations and labor unions which exercise First Amendment rights.² In the press release upon his latest reintroduction of the bill, he stated that “Congress must restore the integrity of our electoral process – in the face of a secret special interest takeover of our democracy, failure to act is inexcusable,” and opined that “[t]he American people deserve a political system that is fair, transparent, and accountable. This legislation would help do that by ensuring that people know who is bankrolling the ads designed to influence their votes.”³ In addition, in March 2015, Rep. Van Hollen wrote to the President of the United States urging him to issue an Executive Order that would require government contractors to disclose their campaign finance spending once they had been awarded a contract.⁴ His justification is that “[r]efusing to disclose the sources of money used in political campaigns denies the American people basic information of who is trying to influence their votes.”⁵

5. Rep. Van Hollen has supported his campaign rhetoric regarding “secret” money in politics in other ways as well. In 2011, he sued the FEC on the allegation that the agency had acted arbitrarily and capriciously when it promulgated a regulation that limited disclosure of certain corporate and labor union donors to those who donate for the purpose of furthering

² See Press Release, Chris Van Hollen, *Van Hollen Reintroduces DISCLOSE Act* (Jan. 21, 2015), <https://goo.gl/g4XPHg> (attached as Ex. 1); see also Press Release, Chris Van Hollen, *Van Hollen Reintroduces DISCLOSE Act* (Jan. 3, 2013), <https://goo.gl/Kw9xHh>; Press Release, Chris Van Hollen, *Van Hollen, House Democrats Introduce DISCLOSE 2012 Act* (Feb. 9, 2012), <https://goo.gl/N4BewQ>; Press Release, Chris Van Hollen, *Van Hollen, Castle, Jones, Brady Announce DISCLOSE Act to Address Citizens United Ruling* (Apr. 29, 2010), <https://goo.gl/f4cXsE>.

³ Press Release, Chris Van Hollen, *Van Hollen Reintroduces DISCLOSE Act* (Jan. 21, 2015) (Ex. 1).

⁴ Ltr. from Rep. Van Hollen to President Barack Obama (Mar. 26, 2015), available at <https://goo.gl/PgxYbn> (attached as Ex. 2).

⁵ *Id.*; see also Lawrence Norden and Daniel Weiner, *How to shine a light on dark money*, MSNBC, Apr. 14, 2014, <http://goo.gl/jlKMvK>.

electioneering communications.⁶ In characterizing this action, Rep. Van Hollen stated that “[t]he disclosure of campaign-donor information is essential to our democracy” and that “[t]he absence of transparency will enable special interest groups to bankroll campaign initiatives while operating under a veil of anonymity. I will continue to press for greater donor disclosure in the courts, and in Congress, in order to bring in the much-needed sunlight.”⁷

6. At the same time, Rep. Van Hollen filed a rulemaking petition at the FEC to request revision to an existing regulation that he contended improperly allowed nonprofit groups to keep secret those donors whose funds are used for independent expenditures in federal elections.⁸ According to Van Hollen, the petition was necessary because the FEC’s regulations had “gutted the statutory contribution disclosure requirements for ‘independent expenditures.’”⁹

7. It appears, however, that Rep. Van Hollen does not live by the same rules and standards he seeks to impose on others. As described herein, at least since 2011, Rep. Van Hollen has received hundreds of thousands of dollars in contributions in the form of *pro bono* legal services, including from Respondents Democracy 21 and The Campaign Legal Center, which he has failed to disclose as FECA and FEC regulations require. These non-disclosed contributions have been made and received in connection with the FEC court litigation and the FEC rulemaking petition that he has pursued ostensibly to eradicate “secret” money in politics.

When it comes to transparency and disclosure, Rep. Van Hollen, in his own words, has denied

⁶ See Press Release, Chris Van Hollen, *Van Hollen Files Lawsuit Challenging FEC Regulations* (Apr. 21, 2011), <https://goo.gl/jLk7sd> (attached as Ex. 3); Compl., *Van Hollen v. FEC*, No. 11-766, 851 F. Supp. 2d 69 (D.D.C. filed Apr. 21, 2011), available at <http://goo.gl/qKd8k5> (attached as Ex. 4).

⁷ Press Release, Chris Van Hollen, *Van Hollen Files Lawsuit Challenging FEC Regulations* (Apr. 21, 2011) (Ex. 3).

⁸ See *id.*; Petition for Rulemaking To Revise and Amend Regulations Relating to Disclosure of Independent Expenditures (Apr. 21, 2011), available at <http://goo.gl/CpKx6f> (attached as Ex. 5); FEC, Notice of Availability, Rulemaking Petition: Independent Expenditure Reporting, 76 Fed. Reg. 36000 (June 21, 2011) (attached as Ex. 6).

⁹ Press Release, Chris Van Hollen, *Van Hollen Files Lawsuit Challenging FEC Regulations* (Apr. 21, 2011) (Ex. 3); see also Press Release, Democracy 21, *Van Hollen Lawsuit Challenges FEC Regulations as Contrary to Law and Responsible for Eviscerating Donor Disclosure* (Apr. 21, 2011), <http://goo.gl/FnXmwD> (attached as Ex. 7).

“the American people basic information of who is trying to influence their votes” by “[r]efusing to disclose the sources of money used in [his] political campaigns.” This complaint seeks the full accounting for and disclosure of the value and source of the in-kind contributions supplied to Rep. Van Hollen in the form of *pro bono* legal services.

Complainants

8. Complainant, the Cause of Action Institute, whose principal place of business is 1919 Pennsylvania Ave, N.W., Suite 650, Washington, DC 20006, is a 501(c)(3) strategic oversight group committed to ensuring that government decision-making is open, honest, and fair.¹⁰ In carrying out its mission, the Cause of Action Institute uses various investigative and legal tools to educate the public about the importance of government transparency and accountability. Its investigations support strategic legal efforts and communication to the public designed to restrict federal government overreach, ensure government accountability, and prevent the fraudulent use of American taxpayer money. As a representative of the news media, it regularly gathers, analyzes and disseminates newsworthy material to the public.¹¹

¹⁰ See CAUSE OF ACTION INSTITUTE, *About*, www.causeofaction.org/about/.

¹¹ The Cause of Action Institute gathers its material from a variety of sources, including FOIA requests, administrative agency complaints (including but not limited to the FEC), whistleblowers/insiders, and scholarly works. It does not merely make raw information available to the public, but rather distributes distinct work products, including articles, op-eds, blog posts, investigative reports, and newsletters. These distinct work products are distributed to the public through various media, including newspapers, the Cause of Action Institute's website, Twitter and Facebook, and it provides news updates to subscribers via e-mail. The Cause of Action Institute's status as a news media representative in the FOIA context is well-established. See, e.g., FOIA Request 2015-HQFO-00691, Dep't of Homeland Sec. (Sept. 22, 2015); FOIA Request F-2015-12930, Dept. of State (Sept. 2, 2015); FOIA Request 14-401-F, Dep't of Educ. (Aug. 13, 2015); FOIA Request HQ-2015-01689-F, Dep't of Energy (Aug. 7, 2015); FOIA Request 2015-OSEC-04996-F, Dep't of Agric. (Aug. 6, 2015); FOIA Request OS-2015-00419, Dep't of Interior (Aug. 3, 2015); FOIA Request 780831, Dep't of Labor (Jul 23, 2015); FOIA Request 15-05002, Sec. & Exch. Comm'n (July 23, 2015); FOIA Request 145-FOI-13785, Dep't of Justice (Jun. 16, 2015); FOIA Request 15-00326-F, Dep't of Educ. (Apr. 08, 2015); FOIA Request 2015-26, Fed. Energy Regulatory Comm'n (Feb. 13, 2015); FOIA Request HQ-2015-00248, Dep't of Energy (Nat'l Headquarters) (Dec. 15, 2014); FOIA Request F-2015-106, Fed. Comm'n Comm'n (Dec. 12, 2014); FOIA Request HQ-2015-00245-F, Dep't of Energy (Dec. 4, 2014); FOIA Request F-2014-21360, Dep't of State, (Dec. 3, 2014); FOIA Request LR-2015-0115, Nat'l Labor Relations Bd. (Dec. 1, 2014); FOIA Request 201500009F, Exp.-Imp. Bank (Nov. 21, 2014); FOIA Request 2015-OSEC-00771-F, Dep't of Agric. (OCIO) (Nov. 21, 2014); FOIA Request OS-2015-00068, Dep't of Interior (Office of Sec'y) (Nov. 20, 2014); FOIA Request CFPB-2015-049-F, Consumer Fin. Prot. Bureau (Nov. 19, 2014); FOIA Request GO-14-

9. In conducting its work, the Cause of Action Institute monitors the campaign finance activities of candidates for federal office and those who make expenditures in federal elections, and it publicizes violations of federal campaign finance laws through its website, press releases, and other methods of distribution. It also brings complaints before the FEC when it discovers violations of FECA.¹² Publicizing campaign finance violations and filing complaints with the FEC serve the Cause of Action Institute educational mission by keeping the public informed about individuals and entities who violate campaign finance laws and by forcing disclosure of information to which the public has a statutory right.

10. Complainant Daniel Z. Epstein is the Executive Director of Cause of Action Institute, a citizen of the United States, and a registered voter and resident of the District of Columbia. His principal place of business is 1919 Pennsylvania Ave, N.W., Suite 650, Washington, DC 20006. Both as a voter and as part of his responsibilities for the Cause of Action Institute, Mr. Epstein is committed to ensuring the integrity of federal elections and the campaign finance requirements of FECA by bringing enforcement actions to the FEC, forcing disclosure of information to which he and other voters have a right under FECA, and disseminating information concerning campaign finance spending and FECA violations to the public.

11. In furtherance of their mission, Complainants review campaign finance filings and media reports and conduct investigations to determine whether candidates, political committees, and other regulated entities comply with the requirements of FECA. Complainants

307, Dep't of Energy (Nat'l Renewable Energy Lab.) (Aug. 28, 2014); FOIA Request HQ-2014-01580-E, Dep't of Energy (Nat'l Headquarters) (Aug. 14, 2014); FOIA Request LR-20140441, Nat'l Labor Relations Bd. (June 4, 2014); FOIA Request 14-01695; Sec. & Exch. Comm'n (May 7, 2014); FOIA Request 2014-4QFO-00236, Dep't of Homeland Sec. (Jan. 8, 2014).

¹² See, e.g., FEC Complaint re Charles Egan, *et al.* (Dec. 19, 2012), *available at* <http://goo.gl/sPe3Nq>; FEC Complaint re Andrew Tobias, *et al.* (Jan. 29, 2013), *available at* <http://goo.gl/kEEXmK>.

rely on proper administration of FECA by the FEC to determine if a regulated entity is complying with the FECA reporting and disclosure obligations. When Complainants uncover likely violations of the law, as they have in this case, they bring these to the attention of the FEC through the complaint process authorized by 52 U.S.C. § 30109(a)(1). Complainants rely on the FEC to enforce FECA because the FEC is the sole administrative forum available to Complainants for enforcement of FECA violations.¹³

12. Complainants also have a right to, and they rely on, the information that must be disclosed and made available to the public pursuant to FECA, and they cannot fully achieve their mission without full access to that information. To assess whether any FEC-regulated entity is in compliance with federal campaign finance law and FEC regulations, and to prepare their investigative reports that are then disseminated to the public, Complainants, for example, must have access to the information contained in the mandatory receipt and disbursement reports filed by regulated individuals and entities pursuant to FECA.¹⁴ Complainants are hindered in their programmatic activity and suffer harm when an FEC-regulated individual or entity fails to disclose receipts, disbursements, and all other campaign finance information as mandated by FECA. Complainants are further harmed when the FEC fails to administer the FECA reporting requirements, limiting their ability to review and analyze campaign finance information.

13. Complainants therefore properly expect and rely on the FEC to investigate in good faith the allegations in this FEC complaint so that Respondents cannot unlawfully hide the information that the law requires them to disclose or otherwise evade their responsibilities under FECA. In the present matter, as set forth below, Complainants specifically seek the disclosure of

¹³ See 52 U.S.C. §§ 30107(e); 30109(a)(8)(A).

¹⁴ See 52 U.S.C. § 30104; 11 C.F.R. part 104.

all required information relating to Rep. Van Hollen's receipt of campaign contributions in the form of *pro bono* legal services.

Respondents

14. Respondent Christopher Van Hollen, Jr. is a Member of the United States House of Representatives from the 8th Congressional District of the State of Maryland. He was first elected in 2002 and has been re-elected in every election since then.¹⁵ As a candidate for federal office and a regular recipient of campaign contributions, Rep. Van Hollen is subject to regulation under FECA. In the 2016 election cycle, he has declared himself a candidate for the United States Senate.¹⁶ His current congressional office is located at 1707 Longworth House Office Bldg., Independence Ave., SE, Washington, DC 20515.

15. Respondent Democracy 21 is a tax-exempt corporation whose stated purpose is "to eliminate the undue influence of big money in American politics, prevent government corruption, empower citizens in the political process and ensure the integrity and fairness of government decisions and elections. The organization promotes campaign finance reform and other related political reforms to accomplish these goals."¹⁷ Its principal place of business is 2000 Massachusetts Avenue, NW, Washington, DC 20036.

¹⁵ See Chris Van Hollen, *About Chris*, <https://vanhollen.house.gov/about-chris>.

¹⁶ See *Chris Van Hollen: Democrat for U.S. Senate*, <http://vanhollen.org/>; Chris Van Hollen, FEC Form 99 (Mar. 12, 2015), available at <http://goo.gl/w5VQm4> (explaining that "Representative Chris Van Hollen is no longer a candidate in the 2016 election for the United States House of Representatives in Maryland's 8th District, having announced on March 4, 2015 that he will seek election to the United States Senate").

¹⁷ DEMOCRACY 21, *Our Mission*, <http://www.democracy21.org/our-mission/>. The name Democracy 21 may refer either to a 501(c)(4) organization, called Democracy 21, or a 501(c)(3) organization, called Democracy 21 Education Fund. It is unclear which of these entities provided the *pro bono* legal services at issue in this matter, but Complainants believe it to be the latter doing business as Democracy 21. See Exhibit 8 (collecting IRS Form 990s for Democracy 21 and Democracy 21 Education Fund, which show that, based upon reported expenditures for the years relevant to this complaint, 87-94 per cent of the two organization's activities were allocated to Democracy 21 Education Fund (94% in 2011; 87% in 2013; 90% in 2013; 89% in 2014) and that the expenditures for Democracy 21 Education Fund included "litigation on the campaign finance issue").

16. Respondent The Campaign Legal Center is a tax-exempt corporation whose stated purpose is to represent the "public interest in the courts, before regulatory agencies and legislative bodies."¹⁸ It believes the "right to vote and to participate equally in the electoral process regardless of wealth are fundamental to maintaining and improving our democratic society."¹⁹ Its principle place of business is 1411 K St. NW, Ste. 1400, Washington, DC 20005.

Discussion

A. Rep. Van Hollen Received *Pro Bono* Legal Services for his Lawsuit against and Rulemaking Petition to the FEC

17. During the last five years, Rep. Van Hollen has been receiving *pro bono* legal services and failing to disclose them as contributions to his campaign, as required by FECA and FEC regulations. These *pro bono* legal services—of direct benefit to the campaigns of a candidate for federal office—have been provided by Democracy 21 and The Campaign Legal Center,²⁰ as well as by other entities including Public Citizen²¹ and Wilmer Cutler Pickering

¹⁸ THE CAMPAIGN LEGAL CENTER, *About*, <http://www.campaignlegalcenter.org/about/about>.

¹⁹ *Id.*; see also Exhibit 9 (stating in its IRS Form 990s that The Campaign Legal Center "is a nonpartisan organization that works in the areas of campaign finance, communications and government ethics. It represents the public interest in administrative and legal proceedings where the nation's campaign finance, election, and related media laws are enforced at the Federal Election Commission (FEC), the Federal Communications Commission (FCC), the Internal Revenue Service IRS), and in the courts").

²⁰ Democracy 21 and The Campaign Legal Center have served as Rep. Van Hollen's counsel in both the FEC lawsuit and the FEC rulemaking petition. See Exs. 4-5; Press Release, Democracy 21, *Van Hollen Lawsuit Challenges FEC Regulations as Contrary to Law and Responsible for Eviscerating Donor Disclosure* (Apr. 21, 2011) (Ex. 7).

²¹ Public Citizen appears to have joined Rep. Van Hollen's legal team during the first appeal in the FEC lawsuit. See Brief of Appellee Chris Van Hollen, *Ctr. for Individual Freedom & Hispanic Leadership Fund v. Van Hollen & FEC*, Nos. 12-5117 & 12-5118 (D.C. Cir. filed July 20, 2012), available at <http://goo.gl/GxWYe8>; see also Public Citizen, *About Us*, <http://goo.gl/xrivDes>.

Hale and Dorr LLP ("WilmerHale").²² The provision of such *pro bono* legal services have continued to date.²³

18. Following the Supreme Court decision in *Citizens United v. FEC*, a case that Rep. Van Hollen has described as "open[ing] the door to the spending of secret money to influence federal elections,"²⁴ Rep. Van Hollen (in addition to submitting the DISCLOSE Act to Congress) initiated a lawsuit against the FEC to challenge an FEC regulation governing disclosure obligations relating to "electioneering communications" and a rulemaking petition designed to force revision to another FEC regulation relating to "independent expenditures."²⁵

19. Rep. Van Hollen brought his lawsuit against the FEC in his capacity as a candidate for federal office. He described himself as an "elected Member of Congress," a "candidate for re-election to Congress," a "recipient of campaign contributions," and a "fundraiser."²⁶ He alleged that "as a federal officeholder and as a future candidate for federal office, [he] and his campaign opponents are and will be regulated by the FECA" and that the challenged regulation infringed his "protected interest in participating in elections untainted by expenditures from undisclosed sources for 'electioneering communications.'"²⁷ He alleged further that he likely would be subject to attack ads "financed by anonymous donors, and will not

²² ~~WilmerHale has served as counsel for Rep. Van Hollen in the FEC lawsuit. See, e.g., Ex. 4 at 13. Donald J. Simon of Sonosky, Chambers, Sachse, Endreson & Perry LLP also has served as counsel for Rep. Van Hollen in both the FEC court litigation and the FEC rulemaking petition (see id. at 14 and Ex. 5), but Complainants do not know if he provided his services *pro bono*. It appears that his legal services may have been compensated by Democracy 21. See *infra* para. 21.~~

²³ See The Campaign Legal Center, *Van Hollen v. FEC: U.S. Court of Appeals for the District of Columbia Circuit Van Hollen's Petition for Rehearing En Banc* (Mar. 4, 2016), <http://gon.gllAw4L7K> (attached as Ex. 15) (explaining that Van Hollen submitted a petition for rehearing *en banc* to the D.C. Circuit Court of Appeals on March 4, 2016 and that "Lawyers for the Campaign Legal Center, Democracy 21 and Public Citizen are part of Rep. Van Hollen's *pro bono* legal team, led by Catherine Carroll of the law firm WilmerHale").

²⁴ Ltr. from Rep. Van Hollen to President Barack Obama (Mar. 26, 2015) (Ex. 2).

²⁵ See Exs. 4-5; Press Release, Chris Van Hollen, *Van Hollen Files Lawsuit Challenging FEC Regulations* (Apr. 21, 2011) (Ex. 3); Press Release, Democracy 21, *Van Hollen Lawsuit Challenges FEC Regulations as Contrary to Law and Responsible for Eviscerating Donor Disclosure* (Apr. 21, 2011) (Ex. 7).

²⁶ Compl. at 4, *Van Hollen v. FEC*, No. 11-766, 851 F. Supp. 2d 69 (D.D.C. filed Apr. 21, 2011) (Ex. 4).

²⁷ *Id.* at 4-5.

be able to respond by, *inter alia*, drawing to the attention of the voters in his district the identity of persons who fund such ads.”²⁸ These admissions indicate that, among other things, Rep. Van Hollen was acting to further his interests as a candidate who intended to (and in fact did) run for federal office in the future.

20. In an April 21, 2011 press release, Respondent Democracy 21 announced that its “Project Supreme Court” legal team was representing Rep. Van Hollen in both the FEC lawsuit and the FEC rulemaking petition.²⁹ The press release stated that The Campaign Legal Center was part of the legal team representing Rep. Van Hollen and that their legal services were being provided *pro bono*:

Lawyers from Democracy 21 and from the Campaign Legal Center are also members of the *pro bono* legal team for the lawsuit and for the Van Hollen FEC rulemaking petition, which was prepared by Don Simon, outside Counsel for Democracy 21.³⁰

21. An examination of Democracy 21’s Form 990’s for the most recent four years reported reveals that it paid Mr. Simon, a partner with the law firm of Sonosky, Chambers, Sachse, Endreson & Perry LLP who also is a Democracy 21 board member, more than \$292,000 between 2011 and 2014 for his legal services.³¹ The Form 990s do not reveal the specific legal matters for which these payments were made, but given their timing, it appears that, in

²⁸ *Id.* at 5.

²⁹ Press Release, Democracy 21, *Van Hollen Lawsuit Challenges FEC Regulations as Contrary to Law and Responsible for Eviscerating Donor Disclosure* (Apr. 21, 2011) (Ex. 7).

³⁰ *Id.*; see also Petition for Rulemaking To Revise and Amend Regulations Relating to Disclosure of Independent Expenditures (Apr. 21, 2011) (Ex. 5) (listing Donald Simon and lawyers from Democracy 21 and The Campaign Legal Center as Counsel for Rep. Van Hollen).

³¹ See Democracy 21 Education Fund, Form 990 at Schedule L pt. IV (2014) (\$65,352 for legal services); Democracy 21 Education Fund, Form 990 at Schedule L pt. IV (2013) (\$68,520 for legal services); Democracy 21 Education Fund, Form 990 at Schedule L pt. IV (2012) (\$79,558 for legal services); Democracy 21 Education Fund, Form 990 at Schedule L pt. IV (2011) (\$79,337 for legal services) (collectively attached as Ex. 8).

addition to providing direct *pro bono* legal services to Rep. Van Hollen, Democracy 21 also may have paid for the legal services provided by Mr. Simori to Rep. Van Hollen.

22. Rep. Van Hollen also received *pro bono* legal services from the law firm of WilmerHale, his lead counsel in the FEC lawsuit. This was reported directly by WilmerHale in a 2014 "year in review" post to its website.³² There the law firm touted its "high profile *pro bono* wins," including "our victory on behalf of Congressman Chris Van Hollen concerning political campaign donor disclosure."³³

B. Under FECA and FEC regulations, *Pro Bono* Legal Services May Constitute Contributions Subject to Donor and Amount Limitations and Disclosure Obligations

23. Under FECA and applicable FEC regulations, the direct supply of *pro bono* legal services and payment to a third party who provides legal services to a candidate or political committee may constitute a contribution that must be disclosed and valued at the usual and normal charge for such services.³⁴ This follows from the statute's definition of contribution, which in relevant part encompasses 1) "... anything of value made by any person for the purpose of influencing any election for Federal office"; and 2) "the payment by any person of

³² WilmerHale 2014 in Review (Jan. 26, 2015), <http://goo.gl/1NVjaA> (listing Van Hollen matter under "Pro bono and Community Service") (attached as Ex. 10).

³³ *Id.*

³⁴ Under the Rules of the House of Representatives, Rep. Van Hollen potentially could have received *pro bono* legal services as a "gift," but to do so he would have been required to set up a Legal Expense Fund. See House Rule 25, cl. 5(a)(1)(A)(i); cl. 5(a)(2)(A); cl. 5(a)(3)(E); Memorandum from the U.S.H.R. Comm. on Ethics to all Members, Officers, & Emps. (Dec. 20, 2011) (effective Jan. 1, 2012), available at <http://goo.gl/uqJaUA> (issuing and appending revised Legal Expense Fund Regulations). Van Hollen, however, never established a Legal Expense Fund of any kind during the pendency of the FEC lawsuit and rulemaking petition, nor did he make any disclosures relating thereto. (In-person review at the Legislative Resource Center.) Indeed, a review of Van Hollen's financial disclosure statements from 2011 to 2014 shows that he did not disclose gifts of any kind. U.S.H.R., Calendar Year 2014 Financial Disclosure Statement of Rep. Chris Van Hollen (May 15, 2015) (answering "no" to question G), available at <http://goo.gl/SF8rXb>; U.S.H.R., Calendar Year 2013 Financial Disclosure Statement of Rep. Chris Van Hollen (May 13, 2014) (answering "no" to question G), available at <http://goo.gl/s6wq8P>; U.S.H.R., Calendar Year 2012 Financial Disclosure Statement of Rep. Chris Van Hollen (May 13, 2013), available at <http://goo.gl/WcTdLp> (answering "no" to question VI); U.S.H.R., Calendar Year 2011 Financial Disclosure Statement of Rep. Chris Van Hollen (May 15, 2012), available at <http://goo.gl/XEJTYS> (answering "no" to question VI). See further Ltr. from CA Inst. to U.S. House Comm. on Ethics (Apr. 16, 2015) (attached as Ex. 11).

compensation for the personal services of another person which are rendered to a political committee without charge for any purpose.”³⁵

24. With respect to the first part of the definition, the provision of *pro bono* legal services is covered by an FEC regulation explaining that “the term anything of value includes all in-kind contributions” and that, unless expressly exempted by the regulations, “the provision of any goods or services without charge or at a charge that is less than the usual and normal charge for such goods or services is a contribution.”³⁶ The regulations also explain that the “usual and normal charge for any services, other than those provided by an unpaid volunteer, means the hourly or piecework charge for the services at a commercially reasonable rate prevailing at the time the services were rendered.”³⁷

25. With respect to the second part of the definition, the FEC has previously recognized that *pro bono* legal services rendered to a political committee for a purpose other than those exempted by FECA and its regulations is a personal service rendered without charge and that, if the individual providing the legal services is paid by another party, such as the entity or firm he works for, the services constitute a contribution under FECA.³⁸

³⁵ 52 U.S.C. §§ 30101(8)(A)(i)-(ii); *see also* 11 C.F.R. § 100.52(a) (“...anything of value made by any person for the purpose of influencing any election for Federal office is a contribution”); *id.* § 100.54 (“The payment by any person of compensation for the personal services of another person if those services are rendered without charge to a political committee for any purpose, except for legal and accounting services provided under 11 CFR 100.74 and 100.75, is a contribution.”). 11 C.F.R. §§ 100.74-.75 refer to services and use of property provided to a candidate or political committee by individual volunteers who are not compensated by any third party, a situation not applicable in this case. For corporations, 52 U.S.C. 30118(b)(2) adds to the definition of contribution “any direct or indirect payment . . . or anything of value . . . to any candidate, campaign committee, or political party or organization, in connection with any election to any of the offices referred to in this section or for any applicable electioneering communication.”

³⁶ 11 C.F.R. § 100.52(d)(1).

³⁷ 11 C.F.R. § 100.52(d)(2).

³⁸ *See* FEC, Advisory Op. 2006-22 (Sept. 18, 2006) (attached as Ex. 12) (provision by a corporation of *pro bono* legal services to a political committee in the form of an *amicus* brief that would benefit a candidate is a prohibited contribution under FECA).

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26. The only recognized exemptions to the definition of contributions as they relate to legal services under FECA concern those provided solely to ensure compliance with the statute or the presidential campaign funding provisions of Title 26 of the U.S. Code³⁹ and those provided by an individual volunteer on behalf of a candidate or political committee.⁴⁰ Under the above definitions, therefore, payment of a candidate's or committee's legal expenses and the direct supply of *pro bono* legal services in many instances will constitute a contribution under FECA.⁴¹

27. Given such contributions, FECA establishes further limits. Both for-profit and nonprofit corporations are prohibited from making any contributions to a candidate or his political committee,⁴² while partnerships and individuals may not contribute more than a certain amount (currently \$2,700 per election to a candidate, but less in previous election cycles).⁴³ FECA and FEC regulations also mandate the disclosure and reporting of all contributions to a candidate or a candidate's political committee.⁴⁴

³⁹ See 52 U.S.C. 30101(8)(B)(viii)(II); 11 CFR §§ 100.86; 114.1(a)(2)(vii). Such legal services nevertheless must still be reported. See 11 C.F.R. § 100.146.

⁴⁰ See 52 U.S.C. 30101(8)(B)(i); 11 CFR § 100.74.

⁴¹ See Advisory Op. 2006-22, *supra* note 38, at 3-5 (Ex. 12); see also FEC, Advisory Op. 1993-15 at 3 (Aug. 26, 1993) ("The Commission concludes that donations raised to defray the legal expenses in connection with the DOJ investigation must be treated as contributions to the Committee subject to the Act's limitations, prohibitions, and disclosure requirements. The activities being investigated emanate not only out of the election, but also from matters clearly within the scope of the Act." (internal quotation marks omitted); FEC, Advisory Op. 2003-20 at 3 (Aug. 29, 2003) (funds raised and spent for scholarship program are not contributions "provided that the recipients of the scholarships do not engage in any activity in connection with a Federal or non-Federal election as part of, or in exchange for, the scholarship"); FEC Advisory Op. 1982-60 at 2 (Jan. 21, 1983) ("[P]ayments by corporations to participants in [internship] programs[] do not give rise to a corporate contribution so long as the intern does not engage in activity related to the election campaign of the sponsoring Member of Congress."); FEC, Advisory Op. 1982-31 at 2 (May 20, 1982) (stipend from a university-based internship program is not a contribution to a political committee, but only to the extent that the intern's duties are "confined to legal and accounting services solely for the purpose of ensuring compliance with the Act"); Advisory Op. 1979-67 at 2 (Feb. 11, 1980) ("The Commission recognizes the basic educational purpose of the proposed intern program. There would be, however, a contribution in-kind if the interns engage in activity related to the campaigns of individuals seeking Federal office.").

⁴² 52 U.S.C. § 30118(a); 11 C.F.R. § 114.2(b)(1).

⁴³ 52 U.S.C. § 30116(a), (c); 11 C.F.R. § 110.1(b), (e); see also FEC, Contributions (updated Feb. 2015), <http://goo.gl/yOMw4E>; FEC, Partnerships (updated Jan. 2015), available at <http://goo.gl/Ai7DM2>.

⁴⁴ 52 U.S.C. § 30104; 11 C.F.R. Part 104.

C. The *Pro Bono* Legal Services in this Matter Constitute Contributions under FECA and FEC Regulations

28. In the present case, the *pro bono* legal services provided by Respondent Democracy 21, The Campaign Legal Center, and other entities to Rep. Van Hollen, and the receipt of those services by Rep. Van Hollen, fall within the definition of a contribution under FECA and FEC regulations. It appears these services were provided directly to Rep. Van Hollen in his capacity as a candidate for federal office, but they constitute contributions whether provided to the candidate or his political committee.

29. As mentioned above, a personal service provided without charge to a political committee (other than those expressly exempted) constitutes a contribution if such services are paid for by another person (such as by the firm or corporation who employs the individual providing the service).⁴⁵ In Van Hollen's case, none of the exemptions apply because the legal services were not provided to ensure compliance under FECA, nor were they provided by volunteers acting in their individual capacity outside the scope of their normal employment.⁴⁶ To the extent the *pro bono* legal services at issue were provided to a political committee identified with Rep. Van Hollen, they constitute a contribution.

30. The *pro bono* legal services also must be considered contributions to the extent they were provided to Rep. Van Hollen in his individual capacity as a candidate. Here, the only question is whether the services were given "for the purpose of influencing any election for

⁴⁵ 52 U.S.C. § 30101(8)(A)(ii); 11 C.F.R. § 100.54; Advisory Op. 2006-22, *supra* note 38, at 4 (Ex. 12).

⁴⁶ See 11 C.F.R. § 100.86 (excepting legal services to political committees for the purpose of compliance with FECA or the Presidential Election Campaign Fund Act). The provision of *pro bono* legal services to Rep. Van Hollen also do not fall within other potential exceptions recognized by the FEC. See Advisory Op. 1983-21 (Sept. 20, 1983) (donations to defray the costs of "legal defense arising from Congressional or other proceedings not involving compliance or audit matters under the Act" do not constitute contributions); FEC, Advisory Op. 1981-16 (Apr. 15, 1981) (any "monies raised to defray the costs of defending commercial litigation" are not a contribution); FEC Advisory Op. 1980-4 (Feb. 1, 1980) (legal services to defend against civil actions arising from the Hatch Act, the Appropriations Act, and allegations of constitutional violations are not a contribution because they are unrelated to political activities).

Federal office.”⁴⁷ There is no question, in other words, that legal services constitute something of value and that, if provided to Van Hollen directly, they were rendered to a candidate for federal office who is subject to FECA.⁴⁸

31. The FEC determines what constitutes “for the purpose of influencing any election for Federal office” on a case-by-case basis. Guidance on the nature of the legal services provided to Rep. Van Hollen in this matter may be found in Advisory Opinion 1990-5, where the FEC determined that a newsletter funded and distributed by a candidate that discussed public policy issues would be campaign-related even absent any explicit references to the individual’s candidacy or campaign for Congress.⁴⁹ Of primary importance to the FEC was whether the activity in question conferred a recognizable benefit or value to the candidate.⁵⁰ Among other factors, the FEC recognized the candidate’s control of the newsletter, the fact that it was inspired by her previous experiences as a candidate, and its public policy content. On the latter point, the FEC explained that any “presentation of policy issues or opinions closely associated with you or your campaign, would be inevitably perceived by readers as promoting your candidacy, and viewed by the Commission as election-related and subject to the Act.”⁵¹ As an example, the FEC stated that “publication of articles or editorials about the issue of Congressional term

⁴⁷ 52 U.S.C. § 30101(8)(a)(i); 11 C.F.R. § 100.52(a).

⁴⁸ See *supra* para. 19; FEC, Details for Candidate ID: H2MD08126 [Chris Van Hollen], <http://goo.gl/mhlBMy> (showing that Van Hollen has been a candidate continuously from 2001); Chris Van Hollen, FEC Form 99 (Mar. 12, 2015), available at <http://goo.gl/w5VQm4> (explaining that “Representative Chris Van Hollen is no longer a candidate in the 2016 election for the United States House of Representatives in Maryland’s 8th District, having announced on March 4, 2015 that he will seek election to the United States Senate”); see also 52 U.S.C. § 30101(2) (defining “candidate” as one “who seeks nomination for election, or election, to Federal office” and including in that definition anyone who receives contributions or makes expenditures in excess of \$5,000); Compl. at 4-5, *Van Hollen v. FEC*, No. 11-766, 851 F. Supp. 2d 69 (D.D.C. filed Apr. 21, 2011) (Ex. 4) (identifying himself as a candidate subject to FECA).

⁴⁹ FEC, Advisory Op. 1990-5 (Apr. 27, 1990) (attached as Ex. 13).

⁵⁰ *Id.* at 4-5; see also *Buckley v. Valeo*, 424 U.S. 1, 78 (1976) (defining contribution to include, *inter alia*, “all expenditures placed in cooperation with or with the consent of a candidate, his agents, or an authorized committee of the candidate”); 52 U.S.C. § 30116(a)(7)(B)(i) (same).

⁵¹ Advisory Op. 1990-5, *supra* note 49, at 4 (Ex. 13).

limitation or related to the Coalition to End the Permanent Congress would be considered campaign-related, due to your focus upon that issue in your campaign for Congress and your candidacy's association with that organization."⁵²

32. Applying this guidance to the Van Hollen matter, both the FEC rulemaking petition and the FEC lawsuit must be construed as campaign-related, and hence the *pro bono* legal services as contributions, because of the connection between their subjects, Rep. Van Hollen's policy initiatives, and the campaigning he has done, and continues to do, on campaign donor disclosure.⁵³ There can be little doubt that the FEC rulemaking petition and lawsuit conferred a recognizable benefit to Rep. Van Hollen in his status as a candidate. The complaint in the FEC lawsuit lays out the many benefits he expected to receive as a candidate and for his campaign from a favorable court holding, even to the point of providing him new strategic opportunities to criticize his opponent and those who funded communications against him.⁵⁴ After the lower court rendered its first opinion in the FEC lawsuit, Rep. Van Hollen used that decision to tout his candidacy, declaring that the ruling "represents one part of our broader strategy to increase disclosure and restore the integrity of the American electoral process. I will continue to press for greater donor disclosure – including passage of the DISCLOSE 2012 Act – until we restore transparency and accountability to our democracy."⁵⁵ He also stated that "this lawsuit represents one part of Congressman Van Hollen's multi-pronged effort to challenge the 2010 Citizens United Supreme Court decision that opened the floodgates to corporate spending in federal campaigns."⁵⁶

⁵² *Id.* at 6 n.9.

⁵³ See *supra* notes 1-9 and accompanying text.

⁵⁴ See *supra* para. 19.

⁵⁵ Press Release, Chris Van Hollen, *Court Victory One Part of Broader Strategy to Increase Disclosure, Transparency, and Accountability in Political System* (Apr. 2, 2012); <https://goo.gl/t3K4QH> (attached as Ex. 14).

⁵⁶ *Id.*

33. Rep. Van Hollen has made and continues to make the increased disclosure of corporate political spending a key policy initiative of both his candidacy and his time in office. The *pro bono* legal services at issue in this matter, which furthered that policy initiative on Van Hollen's behalf, therefore must be seen for what they are: contributions as defined and regulated by FECA and FEC regulations.

D. Respondents Have Violated FECA

34. As the above makes clear, Democracy 21 and The Campaign Legal Center (among others) have provided contributions to Rep. Van Hollen in the form of *pro bono* legal services. In both making and receiving such contributions, Respondents have participated in at least three FECA violations.

35. First, because both Democracy 21 and The Campaign Legal Center are corporations, they are prohibited from making, and Rep. Van Hollen and his political committee are prohibited from receiving, any of the contributions.⁵⁷ All of the *pro bono* legal services provided by these Respondents, as well as any payments they made to others who provided legal services to Rep. Van Hollen (such as to Mr. Simon), are impermissible under FECA. Rep. Van Hollen (in addition to other appropriate sanctions) should be required to reimburse and disclose through the FECA reporting requirements the full commercial value of such services and payments.

36. Second, the legal services provided by WilmerHale, a partnership, are subject to FECA contribution limits (currently \$2,700 per election, but less in some of the years in which the services were rendered) and FECA prohibits Rep. Van Hollen and his political committee

⁵⁷ 52 U.S.C. § 30118(a); 11 C.F.R. § 114.2.

from receiving contributions in excess of the applicable limit.⁵⁸ Rep. Van Hollen (in addition to other appropriate sanctions) should be required to reimburse and disclose through the FECA reporting requirements the full commercial value of WilmerHale's legal services, properly allocated between permissible contributions and disbursements.

37. Third, FECA requires Rep. Van Hollen to disclose all of his campaign-related contributions and disbursements.⁵⁹ A review of his disclosure reports from 2011 to the present on the FEC website,⁶⁰ however, reveals no disclosed contributions in the form of *pro bono* legal services from Democracy 21, The Campaign Legal Center, or any other entity.⁶¹ In addition to all other appropriate sanctions, Rep. Van Hollen should be required to account for and disclose all contributions he received in the form of *pro bono* legal services during his participation in the FEC lawsuit and the FEC rulemaking petition.

Conclusion

The *pro bono* legal services provided to Rep. Van Hollen as reflected in this complaint are in-kind contributions as defined by FECA and FEC regulations. They were required to be disclosed and were subject to specific contribution limits and prohibitions. Rep. Van Hollen failed to make any of the compulsory disclosures for the years in which those services were provided and received contributions from prohibited sources and in excess of applicable limits.

Accordingly, Complainants request that the FEC immediately conduct an investigation into the allegations as set forth herein and thereafter, upon consideration of the entire record, declare that

⁵⁸ 52 U.S.C. § 30116(a), (c), (f); 11 C.F.R. §§ 110.1(b), (e); 110.9.

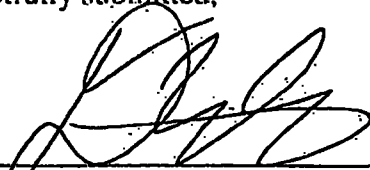
⁵⁹ 52 U.S.C. § 30104; 11 C.F.R. Part 104.

⁶⁰ FEC, Reports Image Index for Committee ID: C00366096, Van Hollen for Congress, <http://goo.gl/OkNZsq>.

⁶¹ The names of various WilmerHale partners and employees are in Van Hollen's disclosures, but those appear to be personal contributions and not an accounting for the in-kind value of *pro bono* legal services. Roger M. Witten and Catherine M.A. Carroll, the WilmerHale lead attorneys on Rep. Van Hollen's court filings, do not appear in the disclosures.

Respondents have violated FECA and applicable FEC regulations, require the full disclosure of the value and source of the *pro bono* legal services provided in this matter, and impose all other sanctions appropriate to the violations.

Respectfully submitted,



March 15, 2016

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Counsel to Complainants

Verification

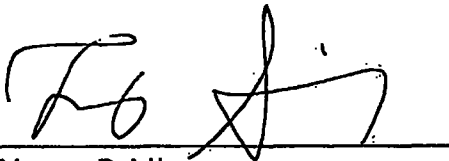
Complainants hereby verify that the statements made in the attached Complaint are, upon their information and belief, true. Sworn pursuant to 18 U.S.C. § 1001.

For Complainants the Cause of Action Institute and Daniel Z. Epstein



Daniel Z. Epstein

Signed and sworn to before me this 15th day of March, 2016.



Notary Public



TONY SONG
NOTARY PUBLIC, DISTRICT OF COLUMBIA
My Commission Expires March 14, 2018

Index to Exhibits

- Exhibit 1: Press Release, Chris Van Hollen, *Van Hollen Reintroduces DISCLOSE Act* (Jan. 21, 2015).
- Exhibit 2: Ltr. from Rep. Van Hollen to President Barack Obama (Mar. 26, 2015).
- Exhibit 3: Press Release, Chris Van Hollen, *Van Hollen Files Lawsuit Challenging FEC Regulations* (Apr. 21, 2011).
- Exhibit 4: Complaint, *Van Hollen v. FEC*, No. 11-766, 851 F. Supp. 2d 69 (D.D.C. Apr. 21, 2011).
- Exhibit 5: Petition for Rulemaking To Revise and Amend Regulations Relating to Disclosure of Independent Expenditures (Apr. 21, 2011).
- Exhibit 6: Federal Election Commission, Notice of Availability, Rulemaking Petition: Independent Expenditure Reporting, 76 Fed. Reg. 36000 (June 21, 2011).
- Exhibit 7: Press Release, Democracy 21, *Van Hollen Lawsuit Challenges FEC Regulations as Contrary to Law and Responsible for Eviscerating Donor Disclosure* (Apr. 21, 2011).
- Exhibit 8: Democracy 21 Education Fund, IRS Form 990 at pp.1-2 & Schedule L pt. IV (2011-2014); Democracy 21, IRS Form 990-EZ at pp.1-2 (2011-2014).
- Exhibit 9: The Campaign Legal Center, IRS Form 990 at pp.1-2 (2011-2014).
- Exhibit 10: WilmerHale 2014 in Review (Jan. 26, 2015).
- Exhibit 11: Ltr. from Cause of Action Institute to U.S. House Committee on Ethics (Apr. 16, 2015).
- Exhibit 12: Federal Election Commission, Advisory Op. 2006-22 (Sept. 18, 2006).
- Exhibit 13: Federal Election Commission, Advisory Op. 1990-5 (Apr. 27, 1990).
- Exhibit 14: Press Release, Chris Van Hollen, *Court Victory One Part of Broader Strategy to Increase Disclosure, Transparency, and Accountability in Political System* (Apr. 2, 2012).
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- Exhibit 15: Press Release, The Campaign Legal Center, *Van Hollen v. FEC: U.S. Court of Appeals for the District of Columbia Circuit Van Hollen's Petition for Rehearing En Banc* (Mar. 4, 2016).

Exhibit 1

17044420024

Van Hollen Reintroduces DISCLOSE Act

Jan 21, 2015 | Washington

Today Maryland Congressman Van Hollen issued the following statement on the reintroduction of the DISCLOSE Act, which will promote transparency and disclosure of the secret money being used to influence American elections:

"I'm pleased today to reintroduce the DISCLOSE Act. The Supreme Court's decision in Citizens United opened the floodgates to secret special interest spending in American elections, and the surge of this money only continues you grow. Congress must restore the integrity of our electoral process – in the face of a secret special interest takeover of our democracy, failure to act is inexcusable.

"The American people deserve a political system that is fair, transparent, and accountable. This legislation would help do that by ensuring that people know who is bankrolling the ads designed to influence their votes. I urge my colleagues on both sides of the aisle to support this legislation – if you have nothing to hide, you have nothing to fear from the DISCLOSE Act."

BACKGROUND:

In June, 2010, the House passed the DISCLOSE Act, which required enhanced donor disclosure. Unfortunately, the Senate version of the bill died after falling one vote short of breaking a filibuster. The consequences have been stark. In the absence of this enhanced disclosure, we saw an estimated \$135 million of secret money funneled into the Congressional elections in 2010. In 2012, we saw an estimated \$ 300 million of secret money funneled into the Presidential election. Most recently, approximately \$173 million of undisclosed outside money poured into the 2014 midterm elections.

The DISCLOSE Act would:

- Increase disclosure of political spending by corporations and outside groups to the federal election commission;
- Require corporations and outside groups to stand by their broadcast ads;
- Require corporations to disclose their expenditures to their shareholders and organizations to disclose their expenditures to their members; and
- Require lobbyists to disclose their campaign expenditures.

Exhibit 2

17044420026

Van Hollen Urges President to Require Government Contractors to Disclose Campaign Finance Spending

Mar 26, 2015 | Washington

Today Maryland Congressman Chris Van Hollen wrote to President Obama to urge him to require government contractors to disclose their campaign finance spending once the bidding process is complete and they have been awarded a contract. In the face of continued obstruction by Republicans in Congress, he argued the Administration must act.

"You have the power to require effective disclosure from those who have received government contracts. It is essential that we use every means available to lift the veil that obscures the identity of those who are secretly bankrolling elections. Compelling government contractors to disclose their contributions would be an important first step. I urge you to act now on this important issue," Congressman Van Hollen wrote.

Van Hollen is the author of the DISCLOSE Act, which has been the primary legislative vehicle in Congress to bring increased transparency to outside spending in our elections. He also leads the effort to increase disclosure in several lawsuits that are pending on the federal level.

The full text of the letter is below.

March 26, 2015
President Barack Obama
The White House
1600 Pennsylvania Ave NW
Washington, DC 20500

Dear Mr. President:

I am writing to urge you to issue an Executive Order to require government contractors to disclose their campaign finance spending once the bidding process is complete and they have been awarded a contract.

Ever since the Citizens United decision opened the door to the spending of secret money to influence federal elections, hundreds of millions of dollars has been channeled into our elections. The Supreme Court in Citizens United by an overwhelming 8 to 1 vote, however, stated that requiring disclosure of campaign finance activities by outside spending groups is constitutional.

Refusing to disclose the sources of money used in political campaigns denies the American people basic information of who is trying to influence their votes. It is long past time to address this problem.

As you know, I introduced the DISCLOSE Act in the House of Representatives shortly after the Court issued the badly reasoned opinion in Citizens United. This bill requires all outside groups making expenditures in federal campaigns to disclose the source of the contributions they are using to fund their campaign-related spending. The DISCLOSE Act bill passed the House in 2010. The Senate companion bill fell one vote short of getting the 60 votes needed to break a filibuster and pass the Senate. Since then, I have reintroduced the DISCLOSE Act in every subsequent Congress.

Unfortunately, House Republican leaders have refused to allow a vote on my bill.

However, you have the power to require effective disclosure from those who have received government contracts. It is essential that we use every means available to lift the veil that obscures the identity of those who are secretly bankrolling elections. Compelling government contractors to disclose their contributions would be an important first step. I urge you to act now on this important issue.

Sincerely,

Chris Van Hollen

Member of Congress

Issues: Government Reform

Exhibit 3

170044420029

Van Hollen Files Lawsuit Challenging FEC Regulations

Apr 21, 2011 | Washington, DC

Today, Congressman Chris Van Hollen filed a lawsuit challenging Federal Election Commission (FEC) regulations that have undermined the campaign finance disclosure requirements established in the Bipartisan Campaign Finance Act of 2001 ("McCain-Feingold") to require groups that pay for "electioneering communications" ads to disclose the donors who provide those funds. These disclosure requirements apply to nonprofit corporations and other groups that conduct outside spending campaigns that influence federal elections.

Last year, in response to the Citizens United v. FEC Supreme Court decision, Congressman Van Hollen led the House effort to enhance campaign finance donor disclosure in the "Democracy is Strengthened by Casting Light on Spending in Elections" (DISCLOSE) Act. This decision opened the floodgates to corporate spending in federal campaigns. The DISCLOSE Act passed the House but fell one vote short in the Senate of the 60 votes required to end the filibuster against this important election reform initiative.

"The disclosure of campaign-donor information is essential to our democracy," wrote Van Hollen. "The absence of transparency will enable special interest groups to bankroll campaign initiatives while operating under a veil of anonymity. I will continue to press for greater donor disclosure in the courts, and in Congress, in order to bring in the much-needed sunlight. We have been unable to enact enhanced disclosure requirements through Congress. However, we have found that the requirements in existing law have been significantly loosened by the FEC's interpretation. The lawsuit I am filing today seeks to restore the statutory requirement that provides greater disclosure of the donors who provide funding for electioneering communications. If this standard had been adhered to, much of the more than \$135 million in secret contributions that funded expenditures in the 2010 congressional races would have been disclosed to the public," Van Hollen continued.

The law requires the disclosure of the identity and contribution amounts of donors who fund electioneering communications. The FEC, in its regulation implementing the law, requires disclosure of donors only when the donation "was made for the purpose of furthering electioneering communications" by the spender. This is a restriction on contribution disclosure that is found nowhere in the statute. Congress did not include a "state of mind" or "purpose" condition tied to "furthering" electioneering communications in the relevant McCain-Feingold disclosure provision. The FEC, by adding this requirement in its regulations has contravened the plain language and meaning of the statute and gutted the contribution disclosure requirements for "electioneering communications."

Congressman Van Hollen is also today filing a petition with the FEC which asks the agency to conduct a rulemaking proceeding to adopt new regulations that would require organizations which make "independent expenditures" also disclose the identity of their donors. The petition points out that the FEC regulations implementing the contribution disclosure requirements for "independent expenditures" are similarly contrary to the law and have similarly gutted the statutory contribution

disclosure requirements for "independent expenditures."

Congressman Van Hollen filed this FEC petition rather than bringing a lawsuit, because unlike the case of the more recent "electioneering communications" regulations, the six-year statute of limitations bars a direct challenge of the "independent expenditure" regulations in court. In order to challenge these regulations that misinterpret the statutory requirements that pertain to "independent expenditures," Congressman Van Hollen must first file a petition for rulemaking and give the FEC an opportunity to address the problems raised by the petition.

"It is imperative that we compel the FEC to change its regulations to properly reflect the laws enacted by Congress. As a result, donor information will be significantly increased and the American people will be better able discern the special interests that are underwriting these campaign expenditures. This information will give the public valuable insight into the corporations and individuals involved in campaigns, as well as the candidates that they support. The Supreme Court has determined that corporations may make political expenditures. However, it did not intend for them to do so under the cover of darkness." Van Hollen said.

Issues: Government Reform

Exhibit 4

17044420032

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

CHRIS VAN HOLLEN,

Plaintiff,

v.

UNITED STATES FEDERAL ELECTION
COMMISSION,

Defendant.

Civil Action No.

COMPLAINT

Plaintiff Chris Van Hollen for his Complaint, states as follows:

1. This action is a challenge under the Administrative Procedure Act (5 U.S.C. §§ 551-706) to a regulation promulgated by the United States Federal Election Commission ("FEC"). The challenged regulation, 11 C.F.R. § 104.20(c)(9), is arbitrary, capricious, and contrary to law because it is inconsistent with a provision of the Bipartisan Campaign Reform Act ("BCRA")—BCRA § 201, codified at 2 U.S.C. § 434(f)—that the regulation purports to implement. As a consequence, the regulation has frustrated the intent of Congress by creating a major loophole in the BCRA's disclosure regime by allowing corporations, including non-profit corporations, and labor organizations to keep secret the sources of donations they receive and use to make "electioneering communications."

2. In a key provision of the BCRA, Congress required disclosure of disbursements made for "electioneering communications," and provided two options for disclosure of the donors to persons making such disbursements. If the disbursement is paid out of a segregated

bank account consisting of funds contributed by individuals, only donors of \$1,000 or more to such account must be disclosed. 2 U.S.C. § 434(f)(2)(E). If the disbursement is not paid out of such a segregated bank account, "the names and addresses of *all* contributors who contributed an aggregate amount of \$1,000 or more" to the entity paying for the "electioneering communication" must be disclosed. 2 U.S.C. § 434(f)(2)(F) (emphasis added).

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3. The FEC's regulation relating to reporting "electioneering communications" purports to provide a different alternative for disclosure of contributors, but one that is not authorized by law. The regulation requires disclosure of donations of \$1,000 or more to corporations, including non-profit corporations, or to labor organizations only when the donation "was made for the purpose of furthering electioneering communications" by the corporation or labor organization. 11 C.F.R. § 104.20(c)(9). Thus, rather than require disclosure of all donors of \$1,000 or more to a segregated bank account of the corporation or labor organization from which the disbursements were made, or disclosure of "*all* contributors" of \$1,000 or more to the corporation or labor organization making the disbursements, 2 U.S.C. § 434(f)(2)(F) (emphasis added), the regulation requires corporations, including non-profit corporations, to disclose only *some* contributors of \$1,000 or more, *i.e.*, donors who have manifested a particular state of mind or "purpose."

4. Congress did not include a "state of mind" or "purpose" element tied to "furthering" electioneering communications in the relevant BCRA provision, 2 U.S.C. § 434(f)(2)(F). The FEC, by adding this requirement in 11 C.F.R. § 104.20(c)(9), contravened the plain language of the statute which requires disclosure of "*all* contributors" of \$1,000 or more to the corporation or labor organization when electioneering communications are not paid from a

segregated bank account. The FEC lacked statutory authority to add the "purpose" element to Congress's statutory disclosure regime for those who fund corporate or union "electioneering communications," and the FEC's regulation adding the "purpose" element is, accordingly, arbitrary, capricious, and contrary to law. Further, the FEC's stated rationale for engrafting a "purpose" requirement is itself irrational, arbitrary, and capricious, rendering it contrary to law.

5. Not only is 11 C.F.R. § 104.20(c)(9) inconsistent with the plain language of the statute, it is also manifestly contrary to Congressional intent and has created the opportunity for gross abuse. Congress sought to require more, not less, disclosure of those whose donations fund "electioneering communications." The FEC's unlawful regulation produces a result that frustrates Congress's objective.

6. Real world experience confirms this conclusion. Relying on the FEC's faulty regulations, many non-profit corporations which spent millions of dollars on "electioneering communications" in the 2010 campaign did not disclose the names of contributors whose donations they used to make "electioneering communications," contrary to the statute and the intent of Congress. As a result, corporations, including non-profits, using bland and unrevealing names, expended millions of dollars on "electioneering communications" to support or attack federal candidates in circumstances where the source(s) of the money spent is unknown to the electorate and to the candidates vying for federal office.

JURISDICTION AND VENUE

7. This action arises under the Federal Election Campaign Act of 1971 ("FECA"), Pub. L. No. 92-225, 2 U.S.C. §§ 431 *et seq.*, as amended by the Bipartisan Campaign Reform

Act of 2002 ("BCRA"), Pub. L. No. 107-155; the Administrative Procedure Act ("APA"), 5 U.S.C. §§ 551-706; and the Declaratory Judgment Act, 28 U.S.C. §§ 2201 *et seq.* This Court has jurisdiction pursuant to 28 U.S.C. § 1331.

8. Venue is proper in the District of Columbia under 28 U.S.C. § 1391(e) because the defendant is a United States agency and because a substantial part of the events or omissions giving rise to the claim occurred in this District.

PARTIES

9. Plaintiff Chris Van Hollen is a Member of the United States House of Representatives from the 8th Congressional District of the State of Maryland. Rep. Van Hollen was elected in 2002 and re-elected every two years thereafter. He next faces re-election in November 2012 and is planning to run for re-election.

10. Rep. Van Hollen is a United States citizen, elected Member of Congress, candidate for re-election to Congress, voter, recipient of campaign contributions, fundraiser, and member of national and state political parties. He faces personal, particularized, and concrete injury from the FEC's promulgation of a regulation (11 C.F.R. § 104.20(c)(9)) that is contrary to the letter and spirit of the BCRA in that it allows corporations and labor organizations to spend unlimited amounts of money on "electioneering communications" without disclosing the identities of persons whose money funds these communications, as required by law.

11. In particular, as a federal officeholder and as a future candidate for federal office, Rep. Van Hollen and his campaign opponents are and will be regulated by the FECA and the BCRA, including 2 U.S.C. § 434(f). The challenged regulation infringes Rep. Van Hollen's

protected interest in participating in elections untainted by expenditures from undisclosed sources for "electioneering communications." If 11 C.F.R. § 104.20(c)(9) stands, Rep. Van Hollen likely will be subjected to attack ads or other "electioneering communications" financed by anonymous donors, and will not be able to respond by, *inter alia*, drawing to the attention of the voters in his district the identity of persons who fund such ads. Rep. Van Hollen, as a citizen and voter, also has an informational interest in disclosure of the persons whose donations are used to fund "electioneering communications" by corporations and labor organizations.

12. Defendant United States Federal Election Commission is a federal agency created pursuant to the Federal Election Campaign Act, 2 U.S.C. § 437c.

FACTS

The FEC Adds A New "Purpose" Requirement To Its Reporting Regulation

13. In 1972, Congress enacted the FECA.

14. In 2002, Congress amended the FECA by enacting the BCRA.

15. The BCRA defines an "electioneering communication" to mean any broadcast, cable, or satellite communication which refers to a clearly identified candidate for federal office, is made within 30 days before a primary election or 60 days before a general election in which the identified candidate is seeking office, and in the case of Congressional and Senate candidates, is geographically targeted to the relevant electorate. BCRA § 201, 2 U.S.C. § 434(f)(3). A communication may qualify as an "electioneering communication" even if the communication was not made *for the purpose* of supporting or opposing an identified candidate, was not

intended to influence a federal election, or did not otherwise amount to express advocacy, as long as it meets the statutory definition of "electioneering communication."

16. The BCRA, as enacted, prohibited corporations and labor organizations from making "electioneering communications." See BCRA § 203, 2 U.S.C. § 441b(b)(2).

17. On December 10, 2003, the Supreme Court rejected a facial challenge to BCRA § 203 in *McConnell v. FEC*, 540 U.S. 93. On June 25, 2007, the Supreme Court held in *FEC v. Wisconsin Right to Life*, 551 U.S. 449 ("*WRTL*"), that BCRA § 203 was unconstitutional as applied to expenditures by corporations for advertisements that did not constitute "express advocacy" or the functional equivalent of express advocacy. See *id.* at 470-76. The court held, "[A]n ad is the functional equivalent of express advocacy only if the ad is susceptible of no reasonable interpretation other than as an appeal to vote for or against a specific candidate." *Id.* at 469-70.

18. As a result of *WRTL*, it became permissible for corporations and labor organizations to make expenditures for "electioneering communications" that did not constitute "express advocacy" or its "functional equivalent."

19. In response to *WRTL*, the FEC issued a Notice of Proposed Rulemaking, proposing changes to its regulations relating to "electioneering communications." 72 Fed. Reg. 50261 (Aug. 31, 2007). Although the plaintiffs in *WRTL* had not challenged the BCRA's disclosure requirements for "electioneering communications," and the Supreme Court made no ruling in that case concerning those requirements, the FEC proposed to revisit "the rules governing reporting of electioneering communications," 72 Fed. Reg. 50262, *i.e.*, 11 C.F.R.

§ 104.20. The FEC acknowledged that the BCRA required corporations and labor organizations to report “‘the name and address of *each* donor who donated an amount aggregating \$1,000 or more’ to the corporation or labor organization during the relevant reporting period,” *id.* at 50271 (emphasis added), but unaccountably sought comment on whether it should add a new rule for corporations and labor organizations: “Should the Commission limit the ‘donation’ reporting requirement to funds that are donated for the express purpose of making electioneering communications?” *Id.*

20. On December 26, 2007, the FEC promulgated revised regulations that modified the “electioneering communications” reporting requirements for corporations and labor organizations. Specifically, the FEC added paragraph (c)(9) to 11 C.F.R. § 104.20, which provides that when corporations and labor organizations make expenditures above a certain threshold amount for “electioneering communications” that are not made out of a segregated account, they must disclose the following information:

If the disbursements were made by a corporation or labor organization pursuant to 11 CFR 114.15, the name and address of each person who made a donation aggregating \$1,000 or more to the corporation or labor organization, aggregating since the first day of the preceding calendar year, which was *made for the purpose of furthering electioneering communications.*

72 Fed. Reg. 72913 (emphasis added).

21. The FEC also published an “Explanation and Justification for Final Rules on Electioneering Communications” (“E & J”), 72 Fed. Reg. 72899 (Dec. 26, 2007), which relevantly stated with regard to disclosure of donors to a corporation or labor organization making disbursements for “electioneering communications” out of funds that are not in a segregated bank account:

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A corporation's general treasury funds are often largely comprised of funds received from investors such as shareholders who have acquired stock in the corporation and customers who have purchased the corporation's products or services, or in the case of a non-profit corporation, donations from persons who support the corporation's mission. These investors, customers, and donors do not necessarily support the corporation's electioneering communications. Likewise, the general treasury funds of labor organizations and incorporated membership organizations are composed of member dues obtained from individuals and other members who may not necessarily support the organization's electioneering communications.

Furthermore, witnesses at the Commission's hearing testified that the effort necessary to identify those persons who provided funds totaling \$1,000 or more to a corporation or labor organization would be very costly and require an inordinate amount of effort. Indeed, one witness noted that labor organizations would have to disclose more persons to the Commission under the [Electioneering Communication ("EC")] rules than they would disclose to the Department of Labor under the Labor Management Report and Disclosure Act.

For these reasons, the Commission has determined that the policy underlying the disclosure provisions of BCRA is properly met by requiring corporations and labor organizations to disclose and report only those persons who made donations for the purpose of funding ECs. Thus, new section 104.20(c)(9) does not require corporations and labor organizations making electioneering communications permissible under 11 CFR 114.15 to report the identities of everyone who provides them with funds for any reason. Instead, new section 104.20(c)(9) requires a labor organization or a corporation to disclose the identities only of those persons who made a donation aggregating \$1,000 or more specifically for the purpose of furthering ECs pursuant to 11 C.F.R. 114.15, during the reporting period. ... Donations made for the purpose of furthering an EC include funds received in response to solicitations specifically requesting funds to pay for ECs as well as funds specifically designated for ECs by the donor.

In the Commission's judgment, requiring disclosure of funds received only from those persons who donated specifically for the purpose of furthering ECs appropriately provides the public with information about those persons who actually support the message conveyed by the ECs without imposing on corporations and labor

organizations the significant burden of disclosing the identities of the vast numbers of customers, investors, or members, who have provided funds for purposes entirely unrelated to the making of ECs.

72 Fed. Reg. 72911.

22. While the E & J refers to the FEC's mistaken understanding of the "policy underlying the disclosure provision of BCRA," the FEC does not even attempt to ground the regulation's "purpose of further electioneering communications" requirement in the actual statutory language Congress enacted in the BCRA, which requires that the identity of "all contributors" of \$1,000 or more must be disclosed when the disbursement for an "electioneering communication" is not made from a separate account.

23. The E & J purports to address a "burden" problem, but Congress did not authorize the FEC to consider the issue of "burden" or to promulgate regulations that take "burden" into account.

24. Even apart from the direct and irreconcilable conflict between the statute and 11 C.F.R. § 104.20(c)(9), the E & J's reasoning is irrational, arbitrary, and capricious on its own terms.

25. First, the FEC simply accepted, unquestioningly, the unsupported, self-serving, and conclusory comments of some parties in the Rulemaking as to the existence and extent of the supposed burden on corporations. The FEC did not make any specific factual findings about any such burden. Had the FEC conducted an inquiry, it would likely have found that the alleged burdens were inconsequential for most if not all corporations and labor organizations.

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26. Second, in any event, the “purpose” test is unnecessary and irrational to alleviate any actual burden that BCRA § 201, 2 U.S.C. § 434(f), may impose on corporations and labor organizations that wish to make disbursements for “electioneering communications.” If a corporation finds compliance with § 434(f)(2)(F)—the “all contributors” provision—too troublesome, it can establish and pay “electioneering communications” expenses out of a segregated bank account consisting of funds donated by individuals, and disclose only the contributors to that account, as the statute expressly allows, 2 U.S.C. § 434(f)(2)(E).

27. The ‘purpose’ test is further irrational because it is unnecessary to impose that test in order to exclude funds such as corporate revenues from the sales of products and services, the proceeds of debt and equity issuances, and bank loans. It would suffice simply for the regulation to say that those sources of corporate funds are excluded.

28. The “purpose” test is further unnecessary and irrational as applied to not-for-profit corporations, which, real-world experience shows, account for a large portion of the “electioneering communications” that have been made.¹ Moreover, non-profit corporations presumably only make “electioneering communications” that are consistent with their mission, and thus the FEC’s purported concern that persons contributing funds to a non-profit corporation might “not necessarily support the corporation’s electioneering communications” is irrational.

¹ In 2010, all of the top ten spenders on “electioneering communications” were either “501(c)” or “527” organizations. See *2010 Outside Spending by Groups*, CENTER FOR RESPONSIVE POLITICS, <http://www.opensecrets.org/outsidespending/summ.php?cycle=2010&disp=O&type=E&chrt=D> (Electioneering Communications filter).

Exploiting 11 C.F.R. § 104.20(c)(9), Corporations Stop Identifying Donors

29. In the aftermath of the FEC's promulgation of 11 C.F.R. § 104.20(c)(9), corporations have exploited the enormous loophole it created.

30. In 2010, persons making "electioneering communications" disclosed the sources of less than 10 percent of their \$79.9 million in "electioneering communication" spending. The ten "persons" that reported spending the most on "electioneering communications" (all of them corporations) disclosed the sources of a mere five percent of the money spent. Of these ten corporations, only three disclosed any information about their funders.²

31. Not surprisingly, as a result of the regulation, the public record reflects little or no disclosure of the numerous contributors to non-profit corporations that made substantial electioneering communications in the 2010 congressional races. The U.S. Chamber of Commerce, a § 501(c) corporation, spent \$32.9 million in electioneering communications in the 2010 congressional elections, and disclosed none of its contributors; American Action Network, a § 501(c) corporation, spent \$20.4 million in electioneering communications in the 2010 congressional elections, and disclosed none of its contributors; Americans for Job Security, a § 501(c) corporation, spent \$4.6 million in electioneering communications in the 2010 congressional elections, and disclosed none of its contributors; Center for Individual Freedom, a § 501(c) corporation, spent \$2.5 million in electioneering communications in the 2010 congressional elections, and disclosed none of its contributors; American Future Fund, a § 501(c) corporation, spent \$2.2 million in electioneering communications in the 2010 congressional

² *Id.*

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elections, and disclosed none of its contributors; CSS Action Fund, a § 501(c) corporation, spent \$1.4 million in electioneering communications in the 2010 congressional elections, and disclosed none of its contributors; Americans for Prosperity, a § 501(c) corporation, spent \$1.3 million in electioneering communications in the 2010 congressional elections, and disclosed none of its contributors; Arkansans for Change, a § 501(c) corporation, spent \$1.3 million in electioneering communications in the 2010 congressional elections, and disclosed none of its contributors; Crossroads GPS, a § 501(c) corporation, spent \$1.1 million in electioneering communications in the 2010 congressional elections, and disclosed none of its contributors. An additional 15 section 501(c) corporations that made electioneering communications in the 2010 congressional elections disclosed none of their contributors.

32. The corporation that spent the most money in 2010 to fund "electioneering communications," the U.S. Chamber of Commerce, publicly stated on January 13, 2011, that even though it will continue to make "electioneering communications," it will continue not to disclose any of its contributors.³

COUNT I: DECLARATORY JUDGMENT

33. Paragraphs 1-32 are incorporated herein. For the reasons alleged, 11 C.F.R. § 104.20(c)(9) is arbitrary, capricious, an abuse of discretion, and contrary to law. 5 U.S.C. § 706(2)(A).

34. The FEC's action on December 26, 2007, promulgating 11 C.F.R. § 104.20(c)(9), ~~was in excess of its statutory jurisdiction, authority, and right. 5 U.S.C. § 706(2)(C).~~

³ *U.S. Chamber Plans to Continue Practice of Not Disclosing Contributors*, BNA MONEY AND POLITICS REPORT, (Jan. 13, 2011).

35. Pursuant to 28 U.S.C. § 2201, Plaintiff is entitled to a declaration that 11 C.F.R. § 104.20(c)(9) is unlawful and invalid.

36. Pursuant to 28 U.S.C. § 2202, Plaintiff requests that the Court remand this matter to the FEC for such further action as may be appropriate.

REQUESTED RELIEF

37. Plaintiff requests:
- A. That the Court declare that 11 C.F.R. § 104.20(c)(9) is contrary to law, arbitrary and capricious, and invalid;
 - B. That the Court remand 11 C.F.R. § 104.20(c)(9) to the FEC for further action consistent with such declaration;
 - C. That the Court retain jurisdiction over this matter to monitor the FEC's timely and full compliance with this Court's judgment; and
 - D. That the Court grant such other and further relief as it deems proper.

~~Dated: April 21, 2011~~

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Exhibit 5

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AGENDA DOCUMENT NO. 11-36



FEDERAL ELECTION COMMISSION
Washington, DC 20463

RECEIVED
FEDERAL ELECTION
COMMISSION
SECRETARIAT

2011 JUN 13 P 4: 47

AGENDA ITEM

For the Meeting of 6-15-11

June 13, 2011

MEMORANDUM

SUBMITTED LATE

TO: The Commission

FROM: Christopher Hughey
Acting General Counsel

Rosemary C. Smith
Associate General Counsel

Robert M. Knop
Assistant General Counsel

Cheryl A.F. Hemsley
Attorney

Theodore M. Lutz
Attorney

SUBJECT: Notice of Availability – Petition for Rulemaking on Independent
Expenditure Reporting filed by Representative Chris Van Hollen

On April 21, 2011, the Commission received a Petition for Rulemaking
(“Petition”) from Representative Chris Van Hollen. The Petition asks the Commission to
revise and amend its regulations regarding the reporting of independent expenditures by
persons other than political committees. See Attachment 1.

The Office of General Counsel has examined the Petition and determined that it
meets the requirements of 11 CFR 200.2(b). Therefore, we have drafted the attached
Notice of Availability (“Notice”) seeking comment on whether the Commission should
initiate a rulemaking on the proposal in the Petition. See Attachment 2. The Notice will
be published in the *Federal Register* pursuant to 11 CFR 200.3(a)(1).

In keeping with the Commission’s usual procedure, the Notice does not address
the merits of the Petition. Instead, it states that consideration of the merits will be
deferred until the close of the comment period.

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The Office of General Counsel requests that this draft be placed on the agenda for the June 15, 2011, open meeting.

Attachments

110344100040

"Donald Simon"
<DSimon@SONOSKY.COM>

04/21/2011 10:06 AM

To <chughey@fec.gov>
cc <rsmith@fec.gov>, <secretary@fec.gov>
bcc
Subject Petition for Rulemaking

OFFICE OF THE
CLERK
2011 APR 21 PM 5:16
FEDERAL ELECTION COMMISSION

Mr. Hughey — Pursuant to 11 CFR 200.2(a), please find attached for filing on behalf of Representative Chris Van Hollen a Petition for Rulemaking to Revise and Amend Regulations Relating to Disclosure of Independent Expenditures.

Thank you.

Don Simon

Donald J. Simon
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Suite 600, 1425 K St. NW
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Van Hollen -- FEC petition re disclosure -- FINAL (April, 2011).PDF

Before the Federal Election Commission

Petition for Rulemaking
To Revise and Amend Regulations Relating to Disclosure of Independent Expenditures

Pursuant to 11 C.F.R. § 200.1 *et seq.*, Representative Chris Van Hollen hereby petitions the Federal Election Commission to conduct a rulemaking to revise and amend 11 C.F.R. § 109.10(e)(1)(vi), the regulation relating to disclosure of donations made to persons, including corporations and labor organizations, which make independent expenditures, in order to conform the regulation with the law. In support of this request, petitioner states:

1. Following the Supreme Court's decision in *Citizens United v. FEC*, 130 S.Ct. 876 (2010), corporations and labor organizations may now use their treasury funds to make "independent expenditures." 2 U.S.C. § 434(17). Such expenditures are subject to the disclosure requirements of the Federal Election Campaign Act (FECA), as amended by the Bipartisan Campaign Reform Act (BCRA), which apply to independent expenditures made by any "person." 2 U.S.C. § 434(c).

2. Under 2 U.S.C. § 434(c), every person (other than a political committee) who makes independent expenditures in excess of \$250 during a calendar year "shall file a statement containing the information required under subsection (b)(3)(A) of this section for all contributions received by such person." 2 U.S.C. § 434(c)(1). Subsection (b)(3)(A), in turn, requires disclosure of "the identification of each person (other than a political committee) who

makes a contribution to the reporting committee during the reporting period" in excess of \$200 within the calendar year. 2 U.S.C. § 434(b)(3)(A).

3. In a separate provision, § 434(c)(2)(C) requires every person who makes independent expenditures in excess of \$250 during the calendar year to disclose "the identification of each person who made a contribution in excess of \$200 to the person filing such statement which was made for the purpose of furthering an independent expenditure."

4. Thus, corporations and labor organizations that make independent expenditures are subject to two overlapping contribution disclosure requirements in § 434(c). Subsection 434(c)(1) requires them to disclose the identity of "each . . . person . . . who makes a contribution" to them of more than \$200, 2 U.S.C. § 434(b)(3)(A); *see id.* § 434(c)(1) (requiring disclosure of information set out in subsection (b)(3)(A)), and subsection (c)(2) requires them to disclose the identity of "each person who made a contribution in excess of \$200 . . . for the purpose of furthering an independent expenditure." 2 U.S.C. § 434(c)(2)(C).

5. The Commission's regulation implementing these disclosure requirements is codified at 11 C.F.R. § 109.10. That regulation provides that every person that is not a political committee and that makes independent expenditures aggregating more than \$250 with respect to a given election in a calendar year shall file a disclosure report "containing the information required by paragraph (e)." 11 C.F.R. § 109.10(b). Subparagraph (e) provides that the disclosure report must include: "The identification of each person who made a contribution in excess of \$200 to the person filing such report, which contribution was made for the purpose of furthering the reported independent expenditure." 11 C.F.R. § 109.10(e)(1)(vi) (emphasis added).

6. The regulation is manifestly inconsistent with the statute. Whereas the statute requires the disclosure of "each...person...who makes a contribution" of more than \$200 to the person making the independent expenditures, 2 U.S.C. § 434(b)(3)(A); *see id.* § 434(c)(1), the regulation requires disclosure only of those contributors who made a contribution "for the purpose of furthering the reported independent expenditure." 11 C.F.R. § 109.10(e)(1)(vi). Thus, the regulation requires far less disclosure than the statute requires. Whereas the statute requires disclosure of all contributors of more than \$200 to the person making independent expenditures, the regulation requires disclosure only of those contributors who state a specific intent to fund a specific ("the reported") independent expenditure. Conversely, under the regulation, all contributions to the person making independent expenditures that were not given for the *specific purpose of furthering the specific reported independent expenditure* are not required to be disclosed. This is in direct contradiction to the language and purpose of the statute.

7. Subsection (c)(2) of § 434 also mandates more disclosure than the regulation requires. The statute requires "identification of each person who made a contribution in excess of \$200 ... for the purpose of furthering an independent expenditure." 2 U.S.C. § 434(c)(2)(C) (emphasis added). The indefinite article "an" preceding the term "independent expenditure" in subsection (c)(2)(C) is significant and should be given effect: it requires disclosure of all persons who made contributions for the purpose of furthering independent expenditures in general. The indefinite "an" means that the person making the contribution need not have a purpose to further any particular independent expenditure. The regulation, however, requires disclosure only of those persons who made contributions "for the purpose of furthering the reported independent expenditure." 11 C.F.R. § 109.10(e)(1)(vi). The insertion of the definite article "the" in the

regulation radically narrows the scope of the § 434(c)(2)(C) disclosure requirement. A purpose to further "an" independent expenditure encompasses any expenditure, whereas a purpose to further "the" independent expenditure encompasses only one. In addition, the statute does not connect the "contribution" to the "reported" expenditure, and accordingly does not condition disclosure on intent to further the particular independent expenditure that is the subject of the report.

8. Under present-day 11 C.F.R. § 109.10(c)(1)(vi), even if a contributor gave money to a person making independent expenditures with knowledge that the contributed funds would be used for independent expenditures, and specifically intended that the funds be used for that purpose, the contribution would still not be subject to disclosure under the regulation unless the contributor intended that the funds be earmarked and used for a specific independent expenditure. This ineffectual disclosure regime is contrary to the language of the statute, which requires disclosure of the contribution if it was made for the purpose of furthering an independent expenditure, even if it was not made for the purpose of furthering any specific independent expenditure. The regulation also contradicts the clear purpose of the statute, which is to obtain disclosure of the identity of all donors, subject to a threshold, whose donations are being used to fund independent expenditures.

9. The Commission's regulation is thus contrary to the language of the statute and frustrates Congress's intent to require disclosure of the sources of funds used by persons making independent expenditures. The Commission's regulation permits a corporation or labor organization that makes independent expenditures to avoid disclosing its contributors—even contributors who gave money specifically for the purpose of furthering the corporation's or labor organization's independent expenditures. The regulation enables a corporation or labor

organization to take the position that the because persons who made contributions to it did not express a specific intent to further the specific independent expenditure that is being reported, no disclosure of such persons is required. As a practical matter, the regulation enables corporations and labor unions that do not wish to abide by Congress's disclosure requirements to evade them entirely, without fear of sanction.

10. Not surprisingly, as a result of the regulation, the public record reflects little or no disclosure of the numerous contributors to non-profit corporations that made substantial independent expenditures in the 2010 congressional races. According to information on the website of the Center for Responsive Politics, the following section 501(c) corporations made independent expenditures in the 2010 election and disclosed none of their contributors:

501(c) Corporation	Amount Spent on Independent Expenditures in 2010 Elections	Disclosure of Contributors Funding Independent Expenditures in 2010
Crossroads GPS	\$16 Million	None
American Future Fund	\$7.4 Million	None
60 Plus Association	\$6.7 Million	None
American Action Network	\$5.6 Million	None
Americans for Job Security	\$4.4 Million	None
Americans for Tax Reform	\$4.1 Million	None
Revere America	\$2.5 Million	None

<http://www.opensecrets.org/outsidespending/sim.php?cycle=2010&disp=O&type=I&chrt=D>.

The CRP website lists an additional twenty-four § 501(c) corporations that made independent expenditures in the 2010 congressional elections, and disclosed none of their contributors. *Id.* In addition, the CRP website lists the League of Conservation Voters as a section 527 organization that spent \$3.9 million on independent expenditures in the 2010 elections and disclosed none of its contributors.

11. This wholesale and widespread absence of donor disclosure by groups making independent expenditures to influence the 2010 congressional elections could not possibly be

what Congress intended when it passed the statutory disclosure provisions. This data only serves to make crystal clear that the current regulation is contrary to law and must be revised to carry out the purpose, meaning and language of the statute.

12. Although Section 109.10 was promulgated in its current form in 2003, 68 Fed.Reg. 404 *et seq.* (Jan. 3, 2003), the insufficiency of the current regulation has been heightened by the *Citizens United* decision. Prior to *Citizens United*, the bulk of independent spending was done by political committees, including party committees, which are required to disclose all of their donors of more than \$200 to the FEC, or by § 527 groups, which are required to disclose all of their donors of more than \$200 to the IRS, or by individual spenders, for whom the donor disclosure issue is largely inapplicable. Thus, prior to *Citizens United*, there generally was comprehensive disclosure of donors to groups making independent expenditures. Post-*Citizens United*, however, corporations, including non-profit corporations, and labor organizations are now able to use their treasury funds to make independent expenditures and to contribute funds to other corporations that make independent expenditures. This has created a new universe of independent spenders who can raise and spend contributions from other persons (including from corporations and labor organizations) to finance their independent expenditures. And that development has in turn highlighted the insufficiency and illegality of the Commission's existing regulation on disclosure of contributors to corporations and labor organizations that make independent expenditures.

13. After *Citizens United*, the Commission's existing regulation enables corporations or labor organizations to use front groups with nondescript and unrevealing names to make independent expenditures and thereby to serve as vehicles to mask the identity of those who are the true sources of funds for spending to influence the outcome of federal elections. Section

501(c) corporations, which are not otherwise subject to any obligation to disclose their donors, are particularly well suited to serve this purpose. The fact that so many § 501(c) corporations made substantial independent expenditures in the 2010 election cycle while so few of them disclosed their donors demonstrates that they are being used to play precisely this role as vehicles to hide the identity of those funding independent expenditures. They can do so only because the FEC's unlawful disclosure regulation facilitates easy circumvention of the overlapping statutory requirements that any person making independent expenditures must disclose "each . . . person . . . who makes a contribution" in excess of \$200, 2 U.S.C. § 434(b)(3)(A), and "each person who made a contribution" in excess of \$200 ". . . which was made for the purpose of furthering an independent expenditure." 2 U.S.C. § 434(c)(2)(C). The statute does not permit § 501(c) non-profit corporations that make independent expenditures to hide their contributors who are funding their expenditures. The Commission's existing regulation, however, permits precisely this kind of secret funding of independent expenditures by hidden donors, in direct contradiction to the purpose and language of the statutory disclosure provisions.

14. The *Citizens United* decision itself stresses the importance of disclosure of contributors to corporations making campaign-related expenditures. After striking down the ban on corporate expenditures in federal campaigns, the Court strongly reaffirmed the constitutionality of and need for laws that require disclosure of corporate spending to influence federal elections. The Court in *Citizens United* – by an 8 to 1 majority – rejected the argument that disclosure requirements "chill" the exercise of First Amendment rights. Disclosure requirements, the Court said, "impose no ceiling on campaign related activities," and "do not prevent anyone from speaking." 130 S.Ct. at 914. The Court held that requiring the disclosure

of campaign-related expenditures serves an important governmental interest in "provid[ing] the electorate with information about the sources of election-related spending." *Id.* The Court – including four of the five Justices who voted to strike down the ban on corporate spending – recognized that "disclosure permits citizens and shareholders to react to the speech of corporate entities in a proper way. This transparency enables the electorate to make informed decisions and give proper weight to different speakers and messages." *Id.* at 916. The Court further stated, "With the advent of the Internet, prompt disclosure of expenditures can provide shareholders and citizens with the information needed to hold corporations and elected officials accountable for their positions and supporters. Shareholders can determine whether their corporation's political speech advances the corporation's interest in making profits, and citizens can see whether elected officials are 'in the pocket' of so-called moneyed interests." In short, the Court said that "the public has an interest in knowing who is speaking about a candidate shortly before an election." *Id.* at 915.

15. The Commission should amend 11 C.F.R. § 109.10(e)(1) by striking existing subparagraph (vi) and replacing it with the following text:

(vi) The identification of each person who made a contribution during the calendar year to the person filing such report, whose contributions have an aggregate amount or value in excess of \$200 within the calendar year, or in any lesser amount if the person filing such report should so elect, together with the date and the amount of any such contribution; and

(vii) The identification of each person who made a contribution during the reporting period in excess of \$200 to the person filing such report, which contribution was made for the purpose of furthering an independent expenditure.¹

16. Accordingly, petitioner requests that the Commission promptly publish a Notice of Availability of this petition in the Federal Register, 11 C.F.R. § 200.3(a)(1), and thereafter

¹ This proposal is the same as that set forth in Agenda Document No. 11-02 (Jan. 18, 2011).

initiate a rulemaking to consider promulgation of the proposed regulation set forth above. *Id.* § 200.4(a).

17. Because this matter is of urgent public importance, petitioner requests the Commission to conduct this rulemaking on an expedited basis, so that a sufficient and lawful regulation can be in place prior to the 2012 elections so that citizens will receive the basic campaign finance information that they are entitled to have by law.

Respectfully submitted,

/s/ Fred Wertheimer

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Counsel for Rep. Chris Van Hollen,
Petitioner

April 21, 2011

FEDERAL ELECTION COMMISSION

11 CFR Part 109

[NOTICE 2011 - XX]

Rulemaking Petition: Independent Expenditure Reporting

AGENCY: Federal Election Commission

ACTION: Rulemaking petition: Notice of Availability

SUMMARY: On April 21, 2011, the Commission received a Petition for Rulemaking from Representative Chris Van Hollen. The Petition urges the Commission to revise and amend the regulations at 11 CFR 109.10(e)(1)(vi) regarding the reporting of independent expenditures by persons other than political committees. The Petition is available for inspection in the Commission's Public Records Office, on its website, <http://www.fec.gov/fosers/>, and through its Faxline service.

DATES: Statements in support of or in opposition to the Petition must be submitted on or before [insert date 60 days after the date of publication in the Federal Register].

ADDRESSES: All comments must be in writing. Comments may be submitted electronically via the Commission's website at <http://www.fec.gov/fosers/>. Commenters are encouraged to submit comments electronically to ensure timely receipt and consideration. Alternatively, comments may be submitted in paper form. Paper comments must be sent to the Federal

Election Commission, Attn.: Robert M. Knop, Assistant
General Counsel, 999 E Street, NW., Washington, D.C. 20463.
All comments must include the full name and postal service
address of a commenter, and of each commenter if filed jointly,
or they will not be considered. The Commission will post
comments on its website at the conclusion of the comment
period.

**FOR FURTHER
INFORMATION
CONTACT:**

Mr. Robert M. Knop, Assistant General Counsel, or Ms. Cheryl
A. F. Hemsley, Attorney, 999 E Street, NW., Washington, D.C.
20463, (202) 694-1650 or (800) 424-9530.

**SUPPLEMENTARY
INFORMATION:**

The Federal Election Commission ("Commission") has received a Petition for
Rulemaking from United States Representative Chris Van Hollen. The petitioner asks
that the Commission revise and amend 11 CFR 109.10(e)(1)(vi) "relating to disclosure of
donations made to persons [other than political committees], including corporations and
labor organizations, which make independent expenditures, in order to conform the
regulation with the law." The Commission seeks comments on the petition.

Copies of the Petition for Rulemaking are available for public inspection at the
Commission's Public Records Office, 999 E Street, NW., Washington, D.C. 20463,
Monday through Friday between the hours of 9 a.m. and 5 p.m., and on the
Commission's website, <http://www.fec.gov/fosers/>. Interested persons may also obtain a

DRAFT

1 copy of the Petition by dialing the Commission's Faxline service at (202) 501-3413 and
2 following its instructions, at any time of the day and week. Request document # 271.

3 Consideration of the merits of the Petition will be deferred until the close of the
4 comment period. If the Commission decides that the Petition has merit, it may begin a
5 rulemaking proceeding. Any subsequent action taken by the Commission will be
6 announced in the Federal Register.

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Cynthia L. Bauerly
Chair
Federal Election Commission

DATED: _____
BILLING CODE: 6715-01-U

ATTACHMENT 2 OF 2

Exhibit 6

170004440001

from 20 to 25, the estimated total burden is now 333 hours (25 respondents x 100 responses x .133 hours). As a result of this action, the burden is being increased by 67 hours.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 8 minutes. There is no change from the previous estimate.

Respondents: Idaho-Eastern Oregon onion handlers.

Estimated Number of Respondents: 25.

Estimated Number of Responses per Respondent: 100.

Estimated Total Annual Burden on Respondents: 333 hours.

Special Purpose Shipment Receiver Certification

Additionally, as previously mentioned, *Form FV-36, Special Purpose Shipment Receiver Certification*, is already approved under OMB No. 0581-0178, for 1.67 hours (50 respondents x 1 responses per respondent x .033 hours per response, for a total of 1.67 burden hours). Because the number of respondents is expected to increase from 50 to 60, the estimated total burden is now 2 hours (60 respondents x 1 responses x .033 hours). As a result of this action, the burden is being increased by .33 hours.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 2 minutes. There is no change from the previous estimate.

Respondents: Receivers of special purpose shipments of Idaho-Eastern Oregon onions.

Estimated Number of Respondents: 60.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 2 hours.

Comments: Comments are invited on:

(1) Whether this collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments should reference OMB No. 0581-0178 and the Marketing Order for Onions Grown in Certain Counties of

Idaho, and Malheur County, Oregon, and be sent to the USDA in care of the Docket Clerk at the previously mentioned address. All comments timely received will be available for public inspection during regular business hours at the same address.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record. Upon OMB approval, this collection will be merged with the forms currently approved for use under OMB No. 0581-0241 "Generic OMB Vegetable Crops." As mentioned previously, all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

A 60-day comment period is provided to allow interested persons to respond to this proposal. All written comments timely received will be considered before a final determination is made on this matter.

List of Subjects in 7 CFR Part 958

Marketing agreements, Onions, Reporting and recordkeeping requirements.

For the reasons set forth above, 7 CFR part 958 is proposed to be amended as follows:

PART 958—ONIONS GROWN IN CERTAIN DESIGNATED COUNTIES IN IDAHO, AND MALHEUR COUNTY, OREGON

1. The authority citation for 7 CFR part 958 continues to read as follows:

Authority: 7 U.S.C. 601-674.

2. In § 958.328, revise paragraph (e) and paragraph (f) introductory text to read as follows:

§ 958.328—Handling regulation.

(a) *Special purpose shipments.* (1) The minimum grade, size, maturity, pack, assessment, and inspection requirements of this section shall not be applicable to shipments of onions for any of the following purposes:

- (i) Planting,
- (ii) Livestock feed,
- (iii) Charity,
- (iv) Dehydration,
- (v) Canning,
- (vi) Freezing,
- (vii) Extraction,
- (viii) Pickling, and
- (ix) Disposal.

(2) Shipments of onions for the purpose of experimentation, as approved by the Committee, may be made without regard to the minimum

grade, size, maturity, pack, and inspection requirements of this section. Assessment requirements shall be applicable to such shipments.

(3) The minimum grade, size, and maturity requirements set forth in paragraph (a) of this section shall not be applicable to shipments of pearl onions, but the maximum size requirement in paragraph (h) of this section and the assessment and inspection requirements shall be applicable to shipments of pearl onions.

(f) *Safeguards.* Each handler making shipments of onions outside the production area for dehydration, canning, freezing, extraction, pickling, or experimentation pursuant to paragraph (e) of this section shall:

Dated: June 15, 2011.

Ellen Kling,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 2011-15445 Filed 6-20-11; 8:45 am]

BILLING CODE 3410-02-P

FEDERAL ELECTION COMMISSION

11 CFR Part 109

[Notice 2011-09]

Rulemaking Petition: Independent Expenditure Reporting

AGENCY: Federal Election Commission.
ACTION: Rulemaking petition: Notice of availability.

SUMMARY: On April 21, 2011, the Commission received a Petition for Rulemaking from Representative Chris Van Hollen. The Petition urges the Commission to revise and amend the regulations at 11 CFR 109.10(e)(1)(vi) regarding the reporting of independent expenditures by persons other than political committees. The Petition is available for inspection in the Commission's Public Records Office, on its website, <http://www.fec.gov/fosers/>, and through its Faxline service.

DATES: Statements in support of or in opposition to the Petition must be submitted on or before August 22, 2011.

ADDRESSES: All comments must be in writing. Comments may be submitted electronically via the Commission's Web site at <http://www.fec.gov/fosers/>. Commenters are encouraged to submit comments electronically to ensure timely receipt and consideration. Alternatively, comments may be submitted in paper form. Paper comments must be sent to the Federal Election Commission, Attn.: Robert M. Knop, Assistant General Counsel, 999 E

Street, NW., Washington, DC 20463. All comments must include the full name and postal service address of a commenter, and of each commenter if filed jointly, or they will not be considered. The Commission will post comments on its website at the conclusion of the comment period.

FOR FURTHER INFORMATION CONTACT: Mr. Robert M. Knop, Assistant General Counsel, or Ms. Cheryl A. F. Hemsley, Attorney, 999 E Street, NW., Washington, DC 20463, (202) 694-1650 or (800) 424-9530.

SUPPLEMENTARY INFORMATION: The Federal Election Commission ("Commission") has received a Petition for Rulemaking from United States Representative Chris Van Hollen. The petitioner asks that the Commission revise and amend 11 CFR 109.10(a)(1)(vi) "relating to disclosure of donations made to persons (other than political committees), including corporations and labor organizations, which make independent expenditures, in order to conform the regulation with the law." The Commission seeks comments on the petition.

Copies of the Petition for Rulemaking are available for public inspection at the Commission's Public Records Office, 999 E Street, NW., Washington, DC 20463, Monday through Friday between the hours of 9 a.m. and 5 p.m., and on the Commission's Web site, <http://www.fec.gov/fosers/>. Interested persons may also obtain a copy of the Petition by dialing the Commission's Faxline service at (202) 501-3413 and following its instructions, at any time of the day and week. Request document #271.

Consideration of the merits of the Petition will be deferred until the close of the comment period. If the Commission decides that the Petition has merit, it may begin a rulemaking proceeding. Any subsequent action taken by the Commission will be announced in the Federal Register.

Dated: June 15, 2011.

Cynthia L. Bauerly,

Chair, Federal Election Commission.

[FR Doc. 2011-15328 Filed 6-20-11; 8:45 am]

BILLING CODE 5715-01-P

FEDERAL ELECTION COMMISSION

11 CFR Part 114

[Notice 2011-08]

Rulemaking Petition: Independent Expenditures and Electioneering Communications by Corporations and Labor Organizations

AGENCY: Federal Election Commission.

ACTION: Rulemaking petition: Notice of Availability.

SUMMARY: On January 26, 2010, the James Madison Center for Free Speech submitted to the Commission a Petition for Rulemaking. The Petition urges the Commission to conform its regulations regarding independent expenditures and electioneering communications made by corporations, membership organizations, and labor organizations to the decision of the Supreme Court in *Citizens United v. FEC*. The Petition is available for inspection in the Commission's Public Records Office, on its Web site, <http://www.fec.gov/fosers/>, and through its Faxline service.

DATES: Statements in support of or in opposition to the Petition must be submitted on or before August 22, 2011.

ADDRESSES: All comments must be in writing. Comments may be submitted electronically via the Commission's Web site at <http://www.fec.gov/fosers/>. Commenters are encouraged to submit comments electronically to ensure timely receipt and consideration. Alternatively, comments may be submitted in paper form. Paper comments must be sent to the Federal Election Commission, Attn.: Robert M. Knop, Assistant General Counsel, 999 E Street, NW., Washington, DC 20463. All comments must include the full name and postal service address of a commenter, and of each commenter if filed jointly, or they will not be considered. The Commission will post comments on its Web site at the conclusion of the comment period.

FOR FURTHER INFORMATION CONTACT: Mr. Robert M. Knop, Assistant General Counsel, or Ms. Cheryl A. F. Hemsley, Attorney, 999 E Street, NW., Washington, DC 20463, (202) 694-1650 or (800) 424-9530.

SUPPLEMENTARY INFORMATION:

The Federal Election Commission ("Commission") has received a Petition for Rulemaking from the James Madison Center for Free Speech. The petitioner asks that the Commission conform FEC regulations at 11 CFR 114.2, 114.4, 114.9, 114.10, 114.14, and 114.15 to the decision of the Supreme Court in *Citizens United v. FEC*, 558 U.S., 130 S. Ct. 876 (2010) allowing corporations, membership organizations, and labor organizations to make independent expenditures and electioneering communications. The Commission seeks comments on the petition.

Copies of the Petition for Rulemaking are available for public inspection at the Commission's Public Records Office, 999 E Street, NW., Washington, DC 20463, Monday through Friday between

the hours of 9 a.m. and 5 p.m., and on the Commission's Web site, <http://www.fec.gov/fosers/>. Interested persons may also obtain a copy of the Petition by dialing the Commission's Faxline service at (202) 501-3413 and following its instructions, at any time of the day and week. Request document #272.

Consideration of the merits of the Petition will be deferred until the close of the comment period. If the Commission decides that the Petition has merit, it may begin a rulemaking proceeding. Any subsequent action taken by the Commission will be announced in the Federal Register.

Dated: June 15, 2010.

Cynthia L. Bauerly,

Chair, Federal Election Commission.

[FR Doc. 2011-15327 Filed 6-20-11; 8:45 am]

BILLING CODE 5715-01-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 21 and 36

[Docket No. FAA-2011-0629; Notice No. 11-04]

RIN 2120-AJ76

Noise Certification Standards for Tiltrotors

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

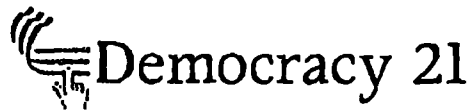
SUMMARY: This rulemaking would establish noise certification standards for issuing type and airworthiness certificates for a new civil, hybrid airplane-rotorcraft known as the tiltrotor. This rule proposes to adopt the same recommended guidelines for noise certification found in the International Civil Aviation Organization (ICAO) Annex 16, Volume 1, Chapter 13, Attachment F (Amendment 7) for tiltrotors certificated in the United States (U.S.). The ICAO recommended practices are already harmonized internationally, and the adoption as standards into our regulations would be consistent with the Federal Aviation Administration's (FAA) goal of harmonizing U.S. regulations with international standards.

The proposed standards would apply to the issuance of the original type certificate, changes to the type certificate, and standard airworthiness certificates for tiltrotors.

DATES: Send your comments on or before October 19, 2011.

Exhibit 7

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HOME LEGISLATIVE ACTION PUBLIC FINANCING MONEY IN POLITICS INSIDE THE COURTS ARCHIVES ABOUT US

Van Hollen Lawsuit Challenges FEC Regulations as Contrary to Law and Responsible for Eviscerating Donor Disclosure

April 21, 2011 Complaints

Successful Court Challenge by Representative Van Hollen Would Provide Disclosure in Future Elections of Secret Contributions Funding Electioneering Communications By Non-profit Groups and Others

Representative Chris Van Hollen (D-MD) filed a lawsuit today against the Federal Election Commission challenging as contrary to law an FEC regulation that has improperly allowed nonprofit 501(c)(4) advocacy groups, 501(c)(6) business associations, and others to keep secret the donors whose funds are being used to pay for "electioneering communications" in federal elections.

The Van Hollen lawsuit was filed in federal district court in Washington, DC.

Representative Van Hollen also filed a rulemaking petition at the FEC today requesting that the Commission revise an existing FEC regulation that is contrary to law and has improperly allowed non-profit groups and others to keep secret the donors whose funds are being used to pay for "independent expenditures" in federal elections.

"Electioneering communications" and "independent expenditures" are defined differently under the federal campaign finance laws and have different regulations to implement their disclosure requirements.

The FEC petition calls on the agency to conduct the rulemaking regarding the disclosure of "independent expenditures" on an expedited basis because it is of urgent importance for a lawful regulation to be in place prior to the 2012 presidential and congressional elections so that citizens receive the basic campaign finance information that they are entitled to have by law.

[Representative Van Hollen filed a FEC rulemaking petition on the "independent expenditures" regulation instead of a lawsuit because the statute of limitations requires the FEC to be given an opportunity to change the "independent expenditure" regulation prior to the filing of a lawsuit challenging it. The same is not true of the regulation on "electioneering communications" which was promulgated more recently and can be directly challenged in court.]

"Improper FEC disclosure regulations are the principal reason that more than \$135 million in contributions spent to influence the 2010 congressional races were kept secret from the American people," said Fred Wertheimer, president of Democracy 21.

"The two actions taken today by Representative Van Hollen seek to ensure that nonprofit groups and others making campaign expenditures will not be able to keep the donors funding their activities hidden from citizens and voters in the future," Wertheimer said.

Wertheimer manages and is a member of the Democracy 21 "Project Supreme Court" legal team representing Representative Van Hollen in the FEC lawsuit and FEC petition.

The explosion of secret money in the 2010 congressional races was triggered by the Supreme Court

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Fred Wertheimer op-ed: Bush Super PAC Scheme Would Violate 2002 Campaign Finance Law

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decision in the *Citizens United* case that opened the floodgates to unlimited corporate spending in federal elections.

The *Citizens United* decision, however, made clear by an 8 to 1 majority that requiring disclosure of the sources of funding for the newly authorized corporate campaign expenditures was not only constitutionally permissible but necessary for corporate accountability. The Supreme Court stated:

With the advent of the Internet, prompt disclosure of expenditures can provide shareholders and citizens with the information needed to hold corporations and elected officials accountable for their positions and supporters. Shareholders can determine whether their corporation's political speech advances the corporation's interest in making profits, and citizens can see whether elected officials are "in the pocket" of so-called moneyed interests."

The public overwhelmingly supports disclosure by independent spenders of their campaign expenditures and the sources of these funds, without regard to party affiliation. According to a *New York Times/CBS Poll* (October 28, 2010) :

92 percent of Americans said that it is important for the law to require campaigns and outside spending groups to disclose how much money they have raised, where the money came from and how it was used.

"Almost all nonprofit groups are incorporated and a number of these groups moved quickly to take advantage of the Supreme Court's decision and the improper FEC regulations to inject massive amounts of secret contributions into the 2010 House and Senate races," Wertheimer said.

"History makes clear that secret money in American politics is a formula for scandal and corruption," Wertheimer stated. "If the FEC had done its job properly, we would not be facing, as we are today, hundreds of millions of dollars in potentially corrupting contributions being secretly poured into the 2012 presidential and congressional elections," Wertheimer said.

The Democracy 21 "Project Supreme Court" legal team representing Representative Van Hollen has twice in the past filed successful lawsuits against the FEC on behalf of members of Congress that challenged FEC regulations as contrary to law.

The two lawsuits, *Shays v. Federal Election Commission I* and *Shays v. Federal Election Commission III*, resulted in the courts striking down nineteen FEC regulations that were adopted by the FEC to implement the Bipartisan Campaign Reform Act of 2002.

The law firm of WilmerHale, led by partner Roger Witten, is heading the legal team for the Van Hollen lawsuit. Lawyers from Democracy 21 and from the Campaign Legal Center are also members of the pro bono legal team for the lawsuit and for the Van Hollen FEC rulemaking petition, which was prepared by Don Simon, outside Counsel for Democracy 21. Former FEC Republican Chairman Trevor Potter, president of the Campaign Legal Center, is also a member of the legal team.

"In 2007, the FEC gutted McCain-Felngold disclosure requirements in a little-noticed rulemaking," according to J. Gerry Hebert, Executive Director of the Campaign Legal Center and also a member of the legal team. "The flood of corporate political spending unleashed by the Supreme Court's 2010 ruling in *Citizens United* made clear the impact of 2007 FEC regulation changes as untold millions of corporate dollars were funneled through the Chamber of Commerce and other groups to avoid disclosure of the source of the funds," Hebert stated.

"Without effective action to close the disclosure loophole opened by the FEC, the American people will continue to remain in the dark about tens of millions of dollars being provided by corporations and others to buy influence over government decisions," Hebert said.

Van Hollen Lawsuit Filed Today

The Van Hollen lawsuit filed today challenges as contrary to law an FEC regulation issued to implement a contribution disclosure requirement enacted as part of the Bipartisan Campaign Reform Act of 2002 (BCRA).

In BCRA, Congress required any entity which makes expenditures for a broadcast ad that refers to a federal candidate in the period 60 days before a general election or 30 days before a primary election to file campaign finance disclosure reports with the FEC. Such expenditures are known as "electioneering communications."

Congress provided in BCRA two alternative options for such spenders to disclose the donors funding their "electioneering communications."

If the independent spender pays for the electioneering communications out of a segregated bank account consisting of funds contributed by individuals, the spender can disclose each donor of \$1,000 or more to the bank account.

If the independent spender chooses not to pay for the electioneering communications from such a segregated bank account, the spender must disclose "the names and addresses of all contributors who contributed an aggregate amount of \$1,000 or more" to the spender during a specified period.

"The FEC regulation to implement the contribution disclosure requirements establishes a different approach that is found nowhere in the statute, is contrary to law and has eviscerated the contribution disclosure provision in the statute," Wertheimer stated.

"The regulation resulted in almost no disclosure of the contributions used to finance 'electioneering communications' in the 2010 congressional races," Wertheimer said.

"It is this FEC regulation that is being challenged by the Van Hollen lawsuit," Wertheimer said.

The FEC regulation challenged by the lawsuit requires corporations and labor unions that make "electioneering communications" to disclose donations of \$1,000 or more only when the donation to the spender was made for the purpose of furthering electioneering communications."

Rather than requiring disclosure by an independent spender of all donors of \$1,000 or more to a segregated bank account maintained by the spender or disclosure of "all contributors" of \$1,000 or more to the spender, as the BCRA statute requires, the FEC regulation requires a spender to disclose only those contributors of \$1,000 or more who have manifested a particular state of mind or "purpose" for their donation.

Congress, however, did not include a "state of mind" or "purpose" condition tied to "furthering" electioneering communications in the BCRA contribution disclosure requirement, according to the lawsuit. The FEC, by adding this requirement in its regulation has contravened the plain language and meaning of the statute, the lawsuit charges. And as the record shows, the FEC regulation has all but eliminated contribution disclosure for "electioneering communications."

According to the Van Hollen lawsuit complaint:

The FEC lacked statutory authority to add the "purpose" element to Congress's statutory disclosure regime for those who fund corporate or union "electioneering communications," and the FEC's regulation adding the "purpose" element is, accordingly, arbitrary, capricious, and contrary to law. Further, the FEC's stated rationale for engrafting a "purpose" requirement is itself irrational, arbitrary, and capricious, rendering it contrary to law.

The lawsuit complaint further states:

Not only is 11 C.F.R. 104.20(c)(6) inconsistent with the plain language of the statute, it is also manifestly contrary to Congressional intent and has created the opportunity for gross abuse. Congress sought to require more, not less, disclosure of those whose donations fund "electioneering communications." The FEC's unlawful regulation produces a result that frustrates Congress's objective.

The lawsuit notes that in the 2010 elections, corporations "exploited the enormous loophole created" by the FEC's regulation. The complaint states that according to information on the website of the Center for Responsive Politics:

In 2010, persons making "electioneering communications" disclosed the sources of less than 10 percent of their \$79.9 million in "electioneering communication" spending. The ten "persons" that reported spending the most on "electioneering communications" (all of them corporations) disclosed the sources of a mere five percent of the money spent. Of these ten corporations, only three disclosed any information about their funders.

"Not surprisingly, as a result of the regulation, the public record reflects little or no disclosure of the numerous contributors to non-profit corporations that made substantial electioneering communications in the 2010 congressional races," according to the complaint.

The lawsuit complaint states that according to information on the website of the Center for Responsive Politics the following section 501(c) corporations made "electioneering communications" in the 2010 election and disclosed none of their contributors:

501 (c) Corporation	Amount Spent on Electioneering Communications in 2010 Elections	Disclosure of Contributors Funding Electioneering Communications in 2010
U.S. Chamber of Commerce	\$32.9 Million	None
American Action Network	\$20.4 Million	None
Americans for Job Security	\$4.8 Million	None
Center for Individual Freedom	\$2.5 Million	None
American Future Fund	\$2.2 Million	None
CSS Action Fund	\$1.4 Million	None
Americans for Prosperity	\$1.3 Million	None
Arkansans for Change	\$1.3 Million	None
Crossroads GPS	\$1.1 Million	None

The Center's website lists an additional 16 section 501(c) corporations that made "electioneering communications" in the 2010 congressional elections but disclosed none of their contributors.

The Van Hollen lawsuit requests the court to declare the FEC regulation invalid and contrary to law, and to remand the regulation back to the agency to promulgate a new rule that conforms to the statute and provides for the contribution disclosure that Congress clearly intended.

In light of the failure of the FEC in the past to comply with court orders on a timely basis, the complaint also asks the court to retain jurisdiction over the case "to monitor the FEC's timely and full compliance with this Court's judgment."

FEC Petition

The FEC rulemaking petition filed today by Representative Van Hollen asks the FEC to conduct a rulemaking proceeding on an expedited basis and adopt a new regulation that properly requires the disclosure of donors to entities that make "independent expenditures."

"Independent expenditures" are expenditures made for the purpose of influencing federal elections that contain "express advocacy" or its functional equivalent. These expenditures, unlike "electioneering communications" are not limited to any specific time period and are not limited to just broadcast ads.

Representative Van Hollen has filed an FEC petition regarding the "independent expenditures" regulation, as opposed to bringing an immediate lawsuit, because the six-year statute of limitations has run on a court challenge to the regulation. By filing a petition for a new rulemaking and giving the FEC the opportunity to consider whether to issue a new regulation, a new six year statute of limitation is triggered if the FEC does not act. The same is not true with regard to the "electioneering communications" regulation which was promulgated less than six years ago and is thus still within the statute of limitations for a direct challenge in court.

"If the FEC rejects the Van Hollen petition for a new regulation on disclosure of "independent expenditures" or fails to act on the petition after a reasonable period of time, Representative Van Hollen would then be able to file a second lawsuit against the FEC," according to Wertheimer.

"The lawsuit could challenge as contrary to law the FEC disclosure regulation applicable to independent expenditures, just as Representative Van Hollen's lawsuit today is challenging the FEC contribution disclosure regulation applicable to electioneering communications," Wertheimer said.

The FEC petition filed by Representative Van Hollen states that statutory disclosure provisions require any entity that make independent expenditures to disclose the identity of "each person . . . who makes a contribution" to the entity of more than \$200, and, in a second overlapping disclosure provision requires the entity to disclose the identity of "each person who made a contribution in excess of \$200 . . . for the purpose of furthering an independent expenditure."

The FEC's regulation implementing these statutory provisions, however, requires disclosure of contributors of more than \$200 to the person making the independent expenditure, only where the

contribution "was made for the purpose of furthering the reported independent expenditure" (emphasis added).

According to the FEC petition:

The regulation is manifestly inconsistent with the statute. Whereas the statute requires the disclosure of "each...person...who makes a contribution" of more than \$200 to the person making the independent expenditures, 2 U.S.C. 434(b)(3)(A); see id. 434(c)(1), the regulation requires disclosure only of those contributors who made a contribution "for the purpose of furthering the reported independent expenditure." 11 C.F.R. 109.10(e)(1)(vi). Thus, the regulation requires far less disclosure than the statute requires. Whereas the statute requires disclosure of all contributors of more than \$200 to the person making independent expenditures, the regulation requires disclosure only of those contributors who state a specific intent to fund a specific independent expenditure. Conversely, under the regulation, all contributions to the person making independent expenditures that were not given for the *specific purpose of furthering the specific reported independent expenditure* are not required to be disclosed. This is in direct contradiction to the language and purpose of the statute.

The FEC petition further states:

The Commission's regulation is thus contrary to the language of the statute and frustrates Congress's intent to require disclosure of the sources of funds used by persons making independent expenditures. The Commission's regulation permits a corporation or labor organization that makes independent expenditures to avoid disclosing its contributors—even contributors who gave money specifically for the purpose of furthering the corporation's or labor organization's independent expenditures. The regulation enables a corporation or labor organization to take the position that the because persons who made contributions to it did not express a specific intent to further the specific independent expenditure that is being reported, no disclosure of such persons is required. As a practical matter, the regulation enables corporations that do not wish to abide by Congress's disclosure requirements to evade them entirely, without fear of sanction.

The petition states that "[n]ot surprisingly, as a result of the regulation, the public record reflects little or no disclosure of the numerous contributors to non-profit corporations that made substantial independent expenditures in the 2010 congressional races."

The petition cites as evidence that according to information on the website of the Center for Responsive Politics the following section 501(c) corporations made "independent expenditures" in the 2010 election and disclosed none of their contributors:

501 (c) Corporation	Amount Spent on Independent Expenditures in 2010 Elections	Disclosure of Contributors Funding Independent Expenditures in 2010
Crossroads GPS	\$16 Million	None
American Future Fund	\$7.4 Million	None
60 Plus Association	\$6.7 Million	None
American Action Network	\$5.8 Million	None
Americans for Job Security	\$4.4 Million	None
Americans for Tax Reform	\$4.1 Million	None
Reverse America	\$2.5 Million	None

Although Section 109.10 was promulgated in its current form in 2003, 68 Fed.Reg. 404 *et seq.* (Jan. 3, 2003), the insufficiency of the current regulation has been heightened by the *Citizens United* decision. Prior to *Citizens United*, the bulk of independent spending was done by political committees, including party committees, which are required to disclose all of their donors of more than \$200 to the FEC, or by 527 groups, which are required to disclose all of their donors of more than \$200 to the IRS, or by individual spenders, for whom the donor disclosure issue is largely inapplicable. Thus, prior to *Citizens United*, there generally was comprehensive disclosure of donors to groups making independent expenditures. According to the FEC petition, the CRP website lists an additional twenty-four 501(c) corporations that made independent expenditures in the 2010 congressional elections and disclosed

none of their contributors. *Id.* In addition, the CRP website lists the League of Conservation Voters as a section 527 organization that spent \$3.9 million on independent expenditures in the 2010 elections and disclosed none of its contributors.

The FEC petition states that the Supreme Court's decision in *Citizens United* to allow corporations to make expenditures in federal elections has opened the door to the use of non-profit corporations as vehicles to hide donors whose funds are used to pay for independent expenditures. The petition states:

Post-*Citizens United*, however, corporations, including non-profit corporations, and labor organizations are now able to use their treasury funds to make independent expenditures and to contribute funds to other corporations that make independent expenditures. This has created a new universe of independent spenders who can raise and spend contributions from other persons (including from corporations and labor organizations) to finance their independent expenditures. And that development has in turn highlighted the insufficiency and illegality of the Commission's existing regulation on disclosure of contributors to corporations and labor organizations that make independent expenditures.

The petition requests the FEC to amend the existing regulation to require disclosure of all contributions over \$200 made to entities that make independent expenditures, as required by existing law.

[Van_Hollen_FEC_Complaint_4_21_11.PDF](#)
[Van_Hollen_FEC_Petition_4_21_11.PDF](#)
[Van_Hollen_Brief_7_1_11.pdf](#)
[Van_Hollen_-_SJ_Reply-Opposition_Brief_8_30_2011.pdf](#)

GET IN TOUCH

Democracy 21
2000 Massachusetts
Ave, NW
Washington, DC 20036

Phone: (202) 355.9600
Email:
info@democracy21.org

OUR WORK

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Democracy work for all
Americans.

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Exhibit 8

17044426073



Form **990**

Return of Organization Exempt From Income Tax

OMB No 1545-0047

2014

Open to Public Inspection



Department of the Treasury
Internal Revenue Service

Under section 501(c), 527, or 4947(a)(1) of the Internal Revenue Code (except private foundations)

Do not enter social security numbers on this form as it may be made public
Information about Form 990 and its instructions is at www.irs.gov/form990

A For the 2014 calendar year, or tax year beginning 01-01-2014, and ending 12-31-2014

B Check if applicable:

- ☐ Address change
- ☐ Name change
- ☐ Initial return
- ☐ Final return/terminated
- ☐ Amended return
- ☐ Application pending

C Name of organization
DEMOCRACY 21 EDUCATION FUND

D Doing business as

E Number and street (or P.O. box if mail is not delivered to street address) Room/suite
2000 MASSACHUSETTS AVENUE NW

F City or town, state or province, country, and ZIP or foreign postal code
WASHINGTON, DC 20036

D Employer identification number

52-1956824

E Telephone number

(202) 355-9600

G Gross receipts \$ 442,298

F Name and address of principal officer
FRED WERTHEIMER
2000 MASSACHUSETTS AVENUE NW
WASHINGTON, DC 20036

H(a) Is this a group return for subordinates? ☐ Yes ☒ No

H(b) Are all subordinates included? ☐ Yes ☒ No
If "No," attach a list (see instructions)

H(c) Group exemption number

I Tax-exempt status ☒ 501(c)(3) ☐ 501(c) () (insert in) ☐ 4947(a)(1) or ☐ 527

J Website: WWW.DEMOCRACY21.ORG

K Form of organization ☒ Corporation ☐ Trust ☐ Association ☐ Other

L Year of formation 1995

M State of legal domicile DC

Part I Summary

Activities & Governance	1 Briefly describe the organization's mission or most significant activities EDUCATION AND RESEARCH CONCERNING THE RENEWAL AND REFORM OF OUR POLITICAL SYSTEM AND SYSTEM OF GOVERNMENT		
	2 Check this box <input checked="" type="checkbox"/> if the organization discontinued its operations or disposed of more than 25% of its net assets		
	3 Number of voting members of the governing body (Part VI, line 1a)	3	14
	4 Number of independent voting members of the governing body (Part VI, line 1b)	4	11
	5 Total number of individuals employed in calendar year 2014 (Part V, line 2a)	5	2
Revenue	6 Total number of volunteers (estimate if necessary)	6	0
	7a Total unrelated business revenue from Part VIII, column (C), line 12	7a	0
	7b Net unrelated business taxable income from Form 990-T, line 34	7b	0
	8 Contributions and grants (Part VIII, line 1h)	Prior Year 435,994	Current Year 441,686
	9 Program service revenue (Part VIII, line 2g)	0	0
Expenses	10 Investment income (Part VIII, column (A), lines 3, 4, and 7d)	607	612
	11 Other revenue (Part VIII, column (A), lines 5, 6d, 9c, 9c, 10c, and 11e)	0	0
	12 Total revenue—add lines 8 through 11 (must equal Part VIII, column (A), line 12)	436,601	442,298
	13 Grants and similar amounts paid (Part IX, column (A), lines 1-3)	45,000	45,000
	14 Benefits paid to or for members (Part IX, column (A), line 4)	0	0
	15 Salaries, other compensation, employee benefits (Part IX, column (A), lines 5-10)	171,421	177,220
	16a Professional fundraising fees (Part IX, column (A), line 11e)	0	0
	b Total fundraising expenses (Part IX, column (D), line 25) <input checked="" type="checkbox"/> 3,831		
	17 Other expenses (Part IX, column (A), lines 11e-11g, 11f-24e)	217,671	189,712
	18 Total expenses—Add lines 13-17 (must equal Part IX, column (A), line 25)	434,092	411,932
Net Assets or Fund Balances	19 Revenue less expenses—Subtract line 18 from line 12	2,509	30,366
	20 Total assets (Part X, line 16)	Beginning of Current Year 374,939	End of Year 405,305
	21 Total liabilities (Part X, line 26)	0	0
	22 Net assets or fund balances—Subtract line 21 from line 20	374,939	405,305

Part II Signature Block

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than officer) is based on all information of which preparer has any knowledge.

Sign Here

Signature of officer: FRED WERTHEIMER, PRESIDENT AND CEO
Date: 2015-05-01

Paid Preparer Use Only

Print/Type preparer's name: PATRICIA DROLET
Preparer's signature: PATRICIA DROLET
Date: [blank]
Check ☐ if self-employed
PIN: P00367984
Firm's name: COUNCILOR BUCHANAN & MITCHELL PC
Firm's EIN: 52-1711839
Firm's address: 7910 WOODMONT AVENUE SUITE 500
BETHESDA, MD 20814
Phone no: (301) 986-0600

420004444071

Part III Statement of Program Service AccomplishmentsCheck if Schedule O contains a response or note to any line in this Part III ☐**1** Briefly describe the organization's mission:

EDUCATION AND RESEARCH CONCERNING THE RENEWAL AND REFORM OF OUR POLITICAL SYSTEM AND SYSTEM OF GOVERNMENT

2 Did the organization undertake any significant program services during the year which were not listed on the prior Form 990 or 990-EZ? ☐ Yes ☒ No

If "Yes," describe these new services on Schedule O

3 Did the organization cease conducting, or make significant changes in how it conducts, any program services? ☐ Yes ☒ No

If "Yes," describe these changes on Schedule O

Describe the organization's program service accomplishments for each of its three largest program services, as measured by expenses. Section 501(c)(3) and 501(c)(4) organizations are required to report the amount of grants and allocations to others, the total expenses, and revenue, if any, for each program service reported.

4a (Code) (Expenses \$ 382,463 including grants of \$ 45,000) (Revenue \$)
 EDUCATION, RESEARCH AND LITIGATION ON THE CAMPAIGN FINANCE ISSUE AND OTHER GOVERNANCE AND POLITICAL REFORM ISSUES

4b (Code) (Expenses \$ including grants of \$) (Revenue \$)

4c (Code) (Expenses \$ including grants of \$) (Revenue \$)

4d Other program services (Describe in Schedule O)

(Expenses \$ including grants of \$) (Revenue \$)

4e Total program service expenses **382,463**

Part IV Business Transactions Involving Interested Persons.

Complete if the organization answered "Yes" on Form 990, Part IV, line 28a, 28b, or 28c.

(a) Name of interested person	(b) Relationship between interested person and the organization	(c) Amount of transaction	(d) Description of transaction	(e) Sharing of organization's revenues?	
				Yes	No
(1) DONALD J SIMON	BOARD MEMBER	65,352	THE BOARD MEMBER IS A PARTNER IN A LAW FIRM THAT PROVIDES LEGAL RESEARCH AND POLICY CONSULTING SERVICES TO THE ORGANIZATION		No
(2) MATT KELLER	BOARD MEMBER	12,000	THE BOARD MEMBER PROVIDED CONSULTING SERVICES TO THE ORGANIZATION		No

Part V Supplemental Information

Provide additional information for responses to questions on Schedule L (see instructions)

Return Reference	Explanation
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Schedule L (Form 990 or 990-EZ) 2014

Form **990**

Return of Organization Exempt From Income Tax

OMB No 1545-0047

2013

Open to Public Inspection

Department of the Treasury
Internal Revenue Service

Under section 501(c), 527, or 4947(a)(1) of the Internal Revenue Code (except private foundations)
Do not enter Social Security numbers on this form as it may be made public. By law, the IRS generally cannot redact the information on the form.
Information about Form 990 and its instructions is at www.irs.gov/form990

A For the 2013 calendar year, or tax year beginning 01-01-2013, 2013, and ending 12-31-2013

- B Check if applicable:
☐ Address change
☐ Name change
☐ Initial return
☐ Terminated
☐ Amended return
☐ Application pending

C Name of organization DEMOCRACY 21 EDUCATION FUND		D Employer identification number 52-1956824
Doing Business As		
Number and street (or P.O. box if mail is not delivered to street address)	Room/suite	E Telephone number
2000 MASSACHUSETTS AVENUE NW		(202) 355-9600
City or town, state or province, country, and ZIP or foreign postal code WASHINGTON, DC 20036		G Gross receipts \$ 436,601

F Name and address of principal officer FRED WERTHEIMER 2000 MASSACHUSETTS AVENUE NW WASHINGTON, DC 20036	H(a) Is this a group return for subordinates? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No H(b) Are all subordinates included? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If "No," attach a list (see instructions) H(c) Group exemption number
--	--

I Tax exempt status ☒ 501(c)(3) ☐ 501(c)() (insert no) ☐ 4947(a)(1) or ☐ 527

J Website: WWW.DEMOCRACY21.ORG

K Form of organization ☒ Corporation ☐ Trust ☐ Association ☐ Other L Year of formation 1995 M State of legal domicile DC

Part I Summary

Activities & Governance	1 Briefly describe the organization's mission or most significant activities: EDUCATION AND RESEARCH CONCERNING THE RENEWAL AND REFORM OF OUR POLITICAL SYSTEM AND SYSTEM OF GOVERNMENT		
	2 Check this box <input type="checkbox"/> if the organization discontinued its operations or disposed of more than 25% of its net assets		
	3 Number of voting members of the governing body (Part VI, line 1a)	3	13
	4 Number of independent voting members of the governing body (Part VI, line 1b)	4	10
	5 Total number of individuals employed in calendar year 2013 (Part V, line 2e)	5	2
Revenue	6 Total number of volunteers (estimate, if necessary)	6	0
	7a Total unrelated business revenue from Part VIII, column (C), line 12	7a	0
	7b Net unrelated business taxable income from Form 990-T, line 34	7b	0
Expenses	8 Contributions and grants (Part VIII, line 1h)	Prior Year	Current Year
	9 Program service revenue (Part VIII, line 2g)	447,830	435,994
	10 Investment income (Part VIII, column (A), lines 3, 4, and 7d)	0	0
	11 Other revenue (Part VIII, column (A), lines 5, 6d, 8c, 9c, 10c, and 11e)	663	607
	12 Total revenue—add lines 8 through 11 (must equal Part VIII, column (A), line 12)	0	0
	13 Grants and similar amounts paid (Part IX, column (A), lines 1-3)	448,493	436,601
	14 Benefits paid to or for members (Part IX, column (A), line 4)	60,000	45,000
	15 Salaries, other compensation, employee benefits (Part IX, column (A), lines 5-10)	0	0
Net Assets or Fund Balances	16a Professional fundraising fees (Part IX, column (A), line 11e)	161,848	171,421
	b Total fundraising expenses (Part IX, column (D), line 25) $\geq 3,422$	0	0
	17 Other expenses (Part IX, column (A), lines 11a-11d, 11f-24e)	234,677	217,671
	18 Total expenses—add lines 13-17 (must equal Part IX, column (A), line 25)	456,525	434,092
19 Revenue less expenses—subtract line 18 from line 12		-8,032	2,909
Net Assets or Fund Balances	Beginning of Current Year		End of Year
	20 Total assets (Part X, line 16)	372,430	374,939
	21 Total liabilities (Part X, line 26)	0	0
22 Net assets or fund balances—subtract line 21 from line 20		372,430	374,939

Part III Signature Block

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than officer) is based on all information of which preparer has any knowledge.

Sign Here	Signature of officer		2014-05-08	
	Date			
Paid Preparer Use Only	FRED WERTHEIMER, PRESIDENT AND CEO			
	Type or print name and title			
	Print/Type preparer's name KYLE SHIN	Preparer's signature	Date	Check <input type="checkbox"/> if self-employed PTIN 001090403
	Firm's name \rightarrow BROLET & ASSOCIATES PLLC		Firm's EIN \rightarrow 52-2017543	
Firm's address \rightarrow 1901 L STREET NW 250 WASHINGTON, DC 20036		Phone no (202) 822-0717		

May the IRS discuss this return with the preparer shown above? (see instructions) ☒ Yes ☐ No

Part III Statement of Program Service AccomplishmentsCheck if Schedule O contains a response or note to any line in this Part III ☐ Yes ☒ No**1** Briefly describe the organization's mission:

EDUCATION AND RESEARCH CONCERNING THE RENEWAL AND REFORM OF OUR POLITICAL SYSTEM AND SYSTEM OF GOVERNMENT

2 Did the organization undertake any significant program services during the year which were not listed on the prior Form 990 or 990-EZ? ☐ Yes ☒ No

If "Yes," describe these new services on Schedule O

3 Did the organization cease conducting, or make significant changes in how it conducts, any program services? ☐ Yes ☒ No

If "Yes," describe these changes on Schedule O

Describe the organization's program service accomplishments for each of its three largest program services, as measured by expenses. Section 501(c)(3) and 501(c)(4) organizations are required to report the amount of grants and allocations to others, the total expenses, and revenue, if any, for each program service reported.

4a	(Code)	(Expenses \$ 403,129	including grants of \$ 45,000	(Revenue \$)
EDUCATION, RESEARCH AND LITIGATION ON THE CAMPAIGN FINANCE ISSUE AND OTHER GOVERNANCE AND POLITICAL REFORM ISSUES				

4b	(Code)	(Expenses \$	including grants of \$	(Revenue \$)
-----------	---------	--------------	------------------------	---------------

4c	(Code)	(Expenses \$	including grants of \$	(Revenue \$)
-----------	---------	--------------	------------------------	---------------

4d	Other program services (Describe in Schedule O)			
	(Expenses \$	including grants of \$	(Revenue \$)

4e	Total program service expenses ▶	403,129
-----------	----------------------------------	---------

Part IV Business Transactions Involving Interested Persons.

Complete if the organization answered "Yes" on Form 990, Part IV, line 28a, 28b, or 28c.

(a) Name of interested person	(b) Relationship between interested person and the organization	(c) Amount of transaction	(d) Description of transaction	(e) Sharing of organization's revenues?	
				Yes	No
(1) DONALD J SIMON	BOARD MEMBER	68,520	THE BOARD MEMBER IS A PARTNER IN A LAW FIRM THAT PROVIDES LEGAL RESEARCH AND POLICY CONSULTING SERVICES TO THE ORGANIZATION		No
(2) MATT KELLER	BOARD MEMBER	12,000	THE BOARD MEMBER PROVIDED CONSULTING SERVICES TO THE ORGANIZATION		No

Part V Supplemental Information

Provide additional information for responses to questions on Schedule L (see instructions)

Return Reference	Explanation
------------------	-------------

Form **990**

Return of Organization Exempt From Income Tax

OMB No 1545-0047

Department of the Treasury
Internal Revenue Service

Under section 501(c), 527, or 4947(a)(1) of the Internal Revenue Code (except black lung benefit trust or private foundation)

2012

Open to Public Inspection

The organization may have to use a copy of this return to satisfy state reporting requirements

A For the 2012 calendar year, or tax year beginning 01-01-2012, 2012, and ending 12-31-2012

B Check if applicable:

- ☐ Address change
☐ Name change
☐ Initial return
☐ Terminated
☐ Amended return
☐ Application pending

C Name of organization
DEMOCRACY 21 EDUCATION FUND

Doing Business As

Number and street (or P.O. box if mail is not delivered to street address) Room/suite
2000 MASSACHUSETTS AVENUE NW

City or town, state or country, and ZIP + 4
WASHINGTON, DC 20036

D Employer identification number

52-1956824

E Telephone number

(202) 355-9600

G Gross receipts \$ 448,493

F Name and address of principal officer
FRED WERTHEIMER
2000 MASSACHUSETTS AVENUE NW
WASHINGTON, DC 20036

H(a) Is this a group return for affiliates? ☐ Yes ☒ No

H(b) Are all affiliates included? ☐ Yes ☒ No
If "No," attach a list (see instructions)

H(c) Group exemption number ▶

I Tax-exempt status ☒ 501(c)(3) ☐ 501(c) () 4 (insert no) ☐ 4947(a)(1) or ☐ 527

J Website: ▶ WWW.DEMOCRACY21.ORG

K Form of organization ☒ Corporation ☐ Trust ☐ Association ☐ Other ▶

L Year of formation 1995

M State of legal domicile DC

Part I Summary

Activities & Governance	1 Briefly describe the organization's mission or most significant activities: EDUCATION AND RESEARCH CONCERNING THE RENEWAL AND REFORM OF OUR POLITICAL SYSTEM AND SYSTEM OF GOVERNMENT		
	2 Check this box <input checked="" type="checkbox"/> if the organization discontinued its operations or disposed of more than 25% of its net assets		
	3 Number of voting members of the governing body (Part VI, line 1a)	3	13
	4 Number of independent voting members of the governing body (Part VI, line 1b)	4	10
	5 Total number of individuals employed in calendar year 2012 (Part V, line 2a)	5	3
	6 Total number of volunteers (estimate if necessary)	6	0
	7a Total unrelated business revenue from Part VIII, column (C), line 12	7a	0
7b Net unrelated business taxable income from Form 990-T, line 34	7b	0	
Revenue	8 Contributions and grants (Part VIII, line 1h)	Prior Year 295,152	Current Year 447,830
	9 Program service revenue (Part VIII, line 2g)	0	0
	10 Investment income (Part VIII, column (A), lines 3, 4, and 7d)	1,064	663
	11 Other revenue (Part VIII, column (A), lines 5, 6d, 8c, 9c, 10c, and 11e)	0	0
	12 Total revenue—add lines 8 through 11 (must equal Part VIII, column (A), line 12)	396,216	448,493
	13 Grants and similar amounts paid (Part IX, column (A), lines 1–3)	15,000	60,000
Expenses	14 Benefits paid to or for members (Part IX, column (A), line 4)	0	0
	15 Salaries, other compensation, employee benefits (Part IX, column (A), lines 5–10)	167,041	161,848
	16a Professional fundraising fees (Part IX, column (A), line 11e)	0	0
	b Total fundraising expenses (Part IX, column (D), line 25) ▶ 3,336		
	17 Other expenses (Part IX, column (A), lines 11a–11d, 11f–24e)	212,719	224,627
	18 Total expenses. Add lines 13–17 (must equal Part IX, column (A), line 25)	394,760	456,525
Net Assets or Fund Balances	19 Revenue less expenses. Subtract line 18 from line 12	1,456	-8,032
	20 Total assets (Part X, line 16)	Beginning of Current Year 380,462	End of Year 372,430
	21 Total liabilities (Part X, line 26)	0	0
	22 Net assets or fund balances. Subtract line 21 from line 20	380,462	372,430

Part II Signature Block

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than officer) is based on all information of which preparer has any knowledge.

Sign Here Signature of officer: _____ Date: 2013 05-14
FRED WERTHEIMER, PRESIDENT AND CEO
Type or print name and title

Paid Preparer Use Only
Print/Type preparer's name: KWAN SHUN
Preparer's signature: _____ Date: _____
Check ☐ if self-employed PTIN: P01060463
Firm's name: ▶ DROLET & ASSOCIATES PLLC
Firm's EIN: ▶ 52 2357543
Firm's address: ▶ 1901 L STREET NW 250
WASHINGTON, DC 20036
Phone no: (202) 822 0717

May the IRS discuss this return with the preparer shown above? (see instructions) ☐ Yes ☒ No

104440880

Part III Statement of Program Service Accomplishments-Check if Schedule O contains a response to any question in this Part III ☐ ☒**1** Briefly describe the organization's mission:

EDUCATION AND RESEARCH CONCERNING THE RENEWAL AND REFORM OF OUR POLITICAL SYSTEM AND SYSTEM OF GOVERNMENT

2 Did the organization undertake any significant program services during the year which were not listed on the prior Form 990 or 990-EZ? ☐ Yes ☒ No

If "Yes," describe these new services on Schedule O

3 Did the organization cease conducting, or make significant changes in how it conducts, any program services? ☐ Yes ☒ No

If "Yes," describe these changes on Schedule O

Describe the organization's program service accomplishments for each of its three largest program services, as measured by expenses. Section 501(c)(3) and 501(c)(4) organizations are required to report the amount of grants and allocations to others, the total expenses, and revenue, if any, for each program service reported.

(Code)	(Expenses \$ 426,390	including grants of \$ 60,000	(Revenue \$)
EDUCATION, RESEARCH AND LITIGATION ON THE CAMPAIGN FINANCE ISSUE AND OTHER GOVERNANCE AND POLITICAL REFORM ISSUES			

(Code)	(Expenses \$	including grants of \$	(Revenue \$)
---------	--------------	------------------------	---------------

4c	(Code)	(Expenses \$	including grants of \$	(Revenue \$)
-----------	---------	--------------	------------------------	---------------

4d Other program services (Describe in Schedule O)

(Expenses \$	including grants of \$	(Revenue \$)
--------------	------------------------	---------------

4e Total program service expenses **426,390**

Part IV Business Transactions Involving Interested Persons.

Complete if the organization answered "Yes" on Form 990, Part IV, line 28a, 28b, or 28c.

(a) Name of interested person	(b) Relationship between interested person and the organization	(c) Amount of transaction	(d) Description of transaction	(e) Sharing of organization's revenues?	
				Yes	No
(1) DONALD J SIMON	BOARD MEMBER	79,558	THE BOARD MEMBER IS A PARTNER IN A LAW FIRM THAT PROVIDES LEGAL RESEARCH AND POLICY CONSULTING SERVICES TO THE ORGANIZATION		No
(2) MATT KELLER	BOARD MEMBER	13,000	THE BOARD MEMBER PROVIDED CONSULTING SERVICES TO THE ORGANIZATION		No

Part V Supplemental Information

Complete this part to provide additional information for responses to questions on Schedule L (see instructions)

Identifier	Return Reference	Explanation
------------	------------------	-------------

Schedule L (Form 990 or 990-EZ) 2012

Form **990**Department of the Treasury
Internal Revenue Service**Return of Organization Exempt From Income Tax**

Under section 501(c), 527, or 4947(a)(1) of the Internal Revenue Code (except black lung benefit trust or private foundation)

▶ The organization may have to use a copy of this return to satisfy state reporting requirements.

OMB No. 1545-0047

2011

Open to Public Inspection

A For the 2011 calendar year, or tax year beginning

and ending

B Check if applicable:

- ☐ Address change
☐ Name change
☐ Initial return
☐ Terminated
☒ Amended return
☐ Application pending

C Name of organization**DEMOCRACY 21 EDUCATION FUND**

Doing Business As

Number and street (or P.O. box if mail is not delivered to street address)

2000 MASSACHUSETTS AVENUE, NW

Room/suite

City or town, state or country, and ZIP + 4

WASHINGTON, DC 20036**F** Name and address of principal officer: **FRED WERTHEIMER****SAME AS C ABOVE****D** Employer identification number**52-1956824****E** Telephone number**202-355-9600****G** Gross receipts**396,216.****H(a)** Is this a group return for affiliates? ☐ Yes ☒ No**H(b)** Are all affiliates included? ☐ Yes ☒ No

If "No," attach a list (see instructions)

H(c) Group exemption number ▶**I** Tax-exempt status: ☒ 501(c)(3) ☐ 501(c)() (insert no.) ☐ 4947(a)(1) or ☐ 527**J** Website: **WWW.DEMOCRACY21.ORG****K** Form of organization: ☒ Corporation ☐ Trust ☐ Association ☐ Other ▶**L** Year of formation: **1995** **M** State of legal domicile: **DC****Part I Summary**

Activities & Governance		Revenue		Expenses		Net Assets or Fund Balances	
1 Briefly describe the organization's mission or most significant activities: EDUCATION AND RESEARCH CONCERNING THE RENEWAL AND REFORM OF OUR POLITICAL SYSTEM AND SYSTEM							
2 Check this box <input type="checkbox"/> if the organization discontinued its operations or disposed of more than 25% of its net assets							
3 Number of voting members of the governing body (Part VI, line 1a)		3	12				
4 Number of independent voting members of the governing body (Part VI, line 1b)		4	10				
5 Total number of individuals employed in calendar year 2011 (Part V, line 2a)		5	2				
6 Total number of volunteers (estimate if necessary)		6	0				
7a Total unrelated business revenue from Part VIII, column (C), line 12		7a	0.				
7b Net unrelated business taxable income from Form 990-T, line 34		7b	0.				
		Prior Year	Current Year				
8 Contributions and grants (Part VII, line 1h)		208,319.	395,152.				
9 Program service revenue (Part VIII, line 2g)		0.	0.				
10 Investment income (Part VIII, column (A), lines 3, 4, and 7d)		2,354.	1,064.				
11 Other revenue (Part VIII, column (A), lines 5, 6d, 8c, 9c, 10c, and 11e)		0.	0.				
12 Total revenue - add lines 8 through 11 (must equal Part VIII, column (A), line 12)		210,673.	396,216.				
13 Grants and similar amounts paid (Part IX, column (A), lines 1-3)		40,000.	15,000.				
14 Benefits paid to or for members (Part IX, column (A), line 4)		0.	0.				
15 Salaries, other compensation, employee benefits (Part IX, column (A), lines 5-10)		163,193.	167,041.				
16a Professional fundraising fees (Part IX, column (A), line 11e)		0.	0.				
b Total fundraising expenses (Part IX, column (D), line 25) ▶ 3,308.							
17 Other expenses (Part IX, column (A), lines 11a-11d, 11f, 11g)		228,689.	212,719.				
18 Total expenses - Add lines 13-17 (must equal Part IX, column (A), line 25)		431,882.	394,760.				
19 Revenue less expenses - Subtract line 18 from line 12		-221,209.	1,456.				
		Beginning of Current Year	End of Year				
20 Total assets (Part X, line 16)		379,006.	380,462.				
21 Total liabilities (Part X, line 26)		0.	0.				
22 Net assets or fund balances - Subtract line 21 from line 20		379,006.	380,462.				

Part II Signature Block

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than officer) is based on all information of which preparer has any knowledge.

SCANNED JUN 21 2012	Signature of officer		Date	
	FRED WERTHEIMER, PRESIDENT AND CEO		May 19, 2012	
	Type or print name and title			
Paid Preparer Use Only	Print/Type preparer's name	Preparer's signature	Date	PTIN
	KWAN SHIN	Kwan Shin	5/11/12	001060463
	Firm's name ▶ DROLET & ASSOCIATES, P.L.L.C	Firm's EIN ▶ 52-2057543		
	Firm's address ▶ 1901 L STREET, NW #250 WASHINGTON, DC 20036	Phone no. 202-822-0717		

May the IRS discuss this return with the preparer shown above? (see instructions)

☒ Yes ☐ No

122201 01-23-12 LHA For Paperwork Reduction Act Notice, see the separate instructions.

Form 990 (2011)

SEE SCHEDULE O FOR ORGANIZATION MISSION STATEMENT CONTINUATION

614

19

Part III Statement of Program Service AccomplishmentsCheck if Schedule O contains a response to any question in this Part III ☐

1 Briefly describe the organization's mission.

**EDUCATION AND RESEARCH CONCERNING THE RENEWAL AND REFORM OF OUR
POLITICAL SYSTEM AND SYSTEM OF GOVERNMENT.**2 Did the organization undertake any significant program services during the year which were not listed on the prior Form 990 or 990-EZ? ☐ Yes ☒ No

If "Yes," describe these new services on Schedule O.

3 Did the organization cease conducting, or make significant changes in how it conducts, any program services? ☐ Yes ☒ No

If "Yes," describe these changes on Schedule O.

4 Describe the organization's program service accomplishments for each of its three largest program services, as measured by expenses. Section 501(c)(3) and 501(c)(4) organizations and section 4947(a)(1) trusts are required to report the amount of grants and allocations to others, the total expenses, and revenue, if any, for each program service reported.

4a (Code _____) (Expenses \$ 365,125. including grants of \$ 15,000.) (Revenue \$ _____)**EDUCATION, RESEARCH AND LITIGATION ON THE CAMPAIGN FINANCE ISSUE AND
OTHER GOVERNANCE AND POLITICAL REFORM ISSUES.**

4b (Code _____) (Expenses \$ _____ including grants of \$ _____) (Revenue \$ _____)

4c (Code _____) (Expenses \$ _____ including grants of \$ _____) (Revenue \$ _____)

4d Other program services (Describe in Schedule O.)

(Expenses \$ _____ including grants of \$ _____) (Revenue \$ _____)

4e Total program service expenses **365,125.**

1704444200084

Part IV Business Transactions Involving Interested Persons.

Complete if the organization answered "Yes" on Form 990, Part IV, line 28a, 28b, or 28c.

(a) Name of interested person	(b) Relationship between interested person and the organization	(c) Amount of transaction	(d) Description of transaction	(e) Sharing of organization's revenues?	
				Yes	No
DONALD J. SIMON	BOARD MEMBER	79,337	THE BOARD M		X

Part V Supplemental Information

Complete this part to provide additional information for responses to questions on Schedule L (see instructions).

SCH L, PART IV, BUSINESS TRANSACTIONS INVOLVING INTERESTED PERSONS:

(A) NAME OF PERSON: DONALD J. SIMON

(D) DESCRIPTION OF TRANSACTION: THE BOARD MEMBER IS A PARTNER IN A LAW FIRM THAT PROVIDES LEGAL RESEARCH AND POLICY CONSULTING SERVICES TO THE ORGANIZATION.

Form 990-EZ

Short Form
Return of Organization Exempt From Income Tax

OMB No 1545-1150

2014

Under section 501(c), 527, or 4947(a)(1) of the Internal Revenue Code (except private foundations)

▶ Do not enter social security numbers on this form as it may be made public.

▶ Information about Form 990-EZ and its instructions is at www.irs.gov/form990.Open to Public
InspectionDepartment of the Treasury
Internal Revenue Service

A For the 2014 calendar year, or tax year beginning and ending

B Check if applicable:
☐ Address change
☐ Name change
☐ Initial return
☐ Final return/terminated
☐ Amended return
☐ Application pending

C Name of organization
DEMOCRACY 21

D Employer identification number
52-1948022

E Telephone number
202-355-9600

F Group Exemption Number ▶

G Accounting Method: ☒ Cash ☐ Accrual Other (specify) ▶

H Check ☐ if the organization is not required to attach Schedule B (Form 990, 990-EZ, or 990-PF).

I Website: ▶ WWW.DEMOCRACY21.ORG

J Tax-exempt status (check only one) ☐ 501(c)(3) ☒ 501(c)(4) (insert no.) 4947(a)(1) or 527

K Form of organization: ☒ Corporation ☐ Trust ☐ Association ☐ Other

L Add lines 5b, 6c, and 7b to line 9 to determine gross receipts. If gross receipts are \$200,000 or more, or if total assets (Part II, column (B) below) are \$500,000 or more, file Form 990 instead of Form 990-EZ ▶ \$ 45,502.

Part I Revenue, Expenses, and Changes in Net Assets or Fund Balances (see the instructions for Part I)Check if the organization used Schedule O to respond to any question in this Part I ☒

Revenue	1	Contributions, gifts, grants, and similar amounts received	1	45,500.
	2	Program service revenue including government fees and contracts	2	
	3	Membership dues and assessments	3	
	4	Investment income	4	2.
	5a	Gross amount from sale of assets other than inventory	5a	
	5b	Less: cost or other basis and sales expenses	5b	
	5c	Gain or (loss) from sale of assets other than inventory (Subtract line 5b from line 5a)	5c	
	6	Gaming and fundraising events		
	6a	Gross income from gaming (attach Schedule G if greater than \$15,000)	6a	
Expenses	6b	Gross income from fundraising events (not including \$ of contributions from fundraising events reported on line 1) (attach Schedule G if the sum of such gross income and contributions exceeds \$15,000)	6b	
	6c	Less: direct expenses from gaming and fundraising events	6c	
	6d	Net income or (loss) from gaming and fundraising events (add lines 6a and 6b and subtract line 6c)	6d	
	7a	Gross sales of inventory, less returns and allowances	7a	
	7b	Less: cost of goods sold	7b	
	7c	Gross profit or (loss) from sales of inventory (Subtract line 7b from line 7a)	7c	
	8	Other revenue (describe in Schedule O)	8	
	9	Total revenue. Add lines 1, 2, 3, 4, 5c, 6d, 7c, and 8	9	45,502.
	10	Grants and similar amounts paid (list in Schedule O)	10	
	11	Benefits paid to or for members	11	
	12	Salaries, other compensation, and employee benefits	12	13,223.
	13	Professional fees and other payments to independent contractors	13	24,151.
14	Occupancy, rent, utilities, and maintenance	14	3,822.	
15	Printing, publications, postage, and shipping	15	981.	
16	Other expenses (describe in Schedule O)	16	5,346.	
17	Total expenses. Add lines 10 through 16	17	47,523.	
Net Assets	18	Excess or (deficit) for the year (Subtract line 17 from line 9)	18	<2,021.>
	19	Net assets or fund balances at beginning of year (from line 27, column (A)) (must agree with end-of-year figure reported on prior year's return)	19	7,775.
	20	Other changes in net assets or fund balances (explain in Schedule O)	20	0.
	21	Net assets or fund balances at end of year. Combine lines 18 through 20	21	5,754.

LHA For Paperwork Reduction Act Notice, see the separate instructions.

Form 990-EZ (2014)

432171
12-15-14

1

15410511 759370 50108-0000

2014.03040 DEMOCRACY 21

50108-01

65 7

Form **990-EZ**

Short Form Return of Organization Exempt From Income Tax

OMB No 1545-1150

2013

Open to Public Inspection

Department of the Treasury
Internal Revenue Service

Under section 501(c), 527, or 4947(a)(1) of the Internal Revenue Code
(except private foundation)

- Do not enter Social Security numbers on this form as it may be made public. By law, the IRS generally cannot redact the information on the form.
- Information about Form 990-EZ and its instructions is at www.irs.gov/form990.

A For the 2013 calendar year, or tax year beginning 01-01-2013, and ending 12-31-2013

B Check if applicable:

- ☐ Address change
- ☐ Name change
- ☐ Initial return
- ☐ Terminated
- ☐ Amended return
- ☐ Application pending

C Name of organization
DEMOCRACY 21

Number and street (or P.O. box, if mail is not delivered to street address) Room/suite
2000 MASSACHUSETTS AVENUE NW

City or town, state or province, country, and ZIP or foreign postal code
WASHINGTON, DC 20036

D Employer identification number

52-1948022

E Telephone number

(202) 355-9600

F Group Exemption Number

G Accounting Method ☒ Cash ☐ Accrual Other (specify) _____

H Check ☐ if the organization is not required to attach Schedule B (Form 990, 990-EZ, or 990-PF)

I Website: WWW.DEMOCRACY21.ORG

J Tax-exempt status (check only one) ☐ 501(c)(3) ☒ 501(c)(4) (insert no.) ☐ 4947(a)(1) or ☐ 527

K Form of organization ☒ Corporation ☐ Trust ☐ Association ☐ Other _____

L Add lines 5b, 6c, and 7b, to line 9 to determine gross receipts. If gross receipts are \$200,000 or more, or if total assets (Part II, column (B) below) are \$500,000 or more, file Form 990 instead of Form 990-EZ. **\$ 45,153**

Part I Revenue, Expenses, and Changes in Net Assets or Fund Balances (see the instructions for Part I)

Check if the organization used Schedule O to respond to any question in this Part I ☒

Revenue	1	Contributions, gifts, grants, and similar amounts received	1	45,150
	2	Program service revenue including government fees and contracts	2	
	3	Membership dues and assessments	3	
	4	Investment income	4	3
	5a	Gross amount from sale of assets other than inventory	5a	
	b	Less cost or other basis and sales expenses	5b	
	c	Gain or (loss) from sale of assets other than inventory (Subtract line 5b from line 5a)	5c	
	6	Gaming and fundraising events		
	a	Gross income from gaming (attach Schedule G if greater than \$15,000)	6a	
	b	Gross income from fundraising events (not including \$ _____ of contributions from fundraising events reported on line 1) (attach Schedule G if the sum of such gross income and contributions exceeds \$15,000)	6b	
c	Less direct expenses from gaming and fundraising events	6c		
d	Net income or (loss) from gaming and fundraising events (add lines 6a and 6b and subtract line 6c)	6d		
7a	Gross sales of inventory, less returns and allowances	7a		
b	Less cost of goods sold	7b		
c	Gross profit or (loss) from sales of inventory (Subtract line 7b from line 7a)	7c		
8	Other revenue (describe in Schedule O)	8		
9	Total revenue. Add lines 1, 2, 3, 4, 5c, 6d, 7c, and 8	9	45,153	
Expenses	10	Grants and similar amounts paid (list in Schedule O)	10	
	11	Benefits paid to or for members	11	
	12	Salaries, other compensation, and employee benefits	12	12,309
	13	Professional fees and other payments to independent contractors	13	19,666
	14	Occupancy, rent, utilities, and maintenance	14	3,568
	15	Printing, publications, postage, and shipping	15	3,287
	16	Other expenses (describe in Schedule O)	16	3,590
	17	Total expenses. Add lines 10 through 16	17	42,420
Net Assets	18	Excess or (deficit) for the year (Subtract line 17 from line 9)	18	2,733
	19	Net assets or fund balances at beginning of year (from line 27, column (A)) (must agree with end-of-year figure reported on prior year's return)	19	5,042
	20	Other changes in net assets or fund balances (explain in Schedule O)	20	0
	21	Net assets or fund balances at end of year. Combine lines 18 through 20	21	7,775

1080000204407

Part II Balance Sheets (see the instructions for Part II)

Check if the organization used Schedule O to respond to any question in this Part II ☒

	(A) Beginning of year		(B) End of year
22 Cash, savings, and investments	7,264	22	8,812
23 Land and buildings		23	
24 Other assets (describe in Schedule O)	959	24	846
25 Total assets	8,223	25	9,658
26 Total liabilities (describe in Schedule O)	3,181	26	1,883
27 Net assets or fund balances (line 27 of column (B) must agree with line 21)	5,042	27	7,775

Part III Statement of Program Service Accomplishments (see the instructions for Part III)

Check if the organization used Schedule O to respond to any question in this Part III ☒

What is the organization's primary exempt purpose?

RENEW & REFORM OUR POLITICAL SYSTEM & GOVERNMENT

Describe the organization's program service accomplishments for each of its three largest program services, as measured by expenses. In a clear and concise manner, describe the services provided, the number of persons benefited, and other relevant information for each program title.

28 ADVOCACY ON THE CAMPAIGN FINANCE ISSUE AND OTHER GOVERNANCE AND POLITICAL REFORM ISSUES

(Grants \$ 0) If this amount includes foreign grants, check here ☐ 28a 42,422

(Grants \$) If this amount includes foreign grants, check here ☐ 29a

30

(Grants \$) If this amount includes foreign grants, check here ☐ 30a

31 Other program services (describe in Schedule O)

(Grants \$) If this amount includes foreign grants, check here ☐ 31a

32 Total program service expenses (add lines 28a through 31a) 32 42,422

Part IV List of Officers, Directors, Trustees, and Key Employees (list each one even if not compensated - see the instructions for Part IV)

Check if the organization used Schedule O to respond to any question in this Part IV. ☒

(a) Name and title	(b) Average hours per week devoted to position	(c) Reportable compensation (Forms W-2/1099-MISC) (if not paid, enter -0-)	(d) Health benefits, contributions to employee benefit plans, and deferred compensation	(e) Estimated amount of other compensation
See Additional Data Table				

Form **990-EZ**

Short Form
Return of Organization Exempt From Income Tax

OMB No 1545-1150

2012

Open to Public Inspection

62

Department of the Treasury
Internal Revenue Service

Under section 501(c), 527, or 4947(a)(1) of the Internal Revenue Code
(except black lung benefit trust or private foundation)
▶ Sponsoring organizations of donor advised funds; organizations that operate one or more hospital facilities; and certain controlling organizations as defined in section 512(b)(13) must file Form 990 (see instructions). All other organizations with gross receipts less than \$200,000 and total assets less than \$500,000 at the end of the year may use this form.
▶ The organization may have to use a copy of this return to satisfy state reporting requirements.

A For the 2012 calendar year, or tax year beginning 01-01-2012, and ending 12-31-2012

B Check if applicable:

- ☐ Address change
☐ Name change
☐ Initial return
☐ Terminated
☐ Amended return
☐ Application pending

C Name of organization
DEMOCRACY 21
Number and street (or P.O. box, if mail is not delivered to street address) Room/suite
2000 MASSACHUSETTS AVENUE NW
City or town, state or country, and ZIP + 4
WASHINGTON, DC 20036

D Employer identification number

52-1948022

E Telephone number

(202) 355-9600

F Group Exemption Number ▶

G Accounting Method ☒ Cash ☐ Accrual Other (specify) ▶

I Website: ▶ WWW.DEMOCRACY21.ORG

H Check ☐ if the organization is not required to attach Schedule B (Form 990, 990-EZ, or 990-PF)

J Tax-exempt status (check only one) — ☐ 501(c)(3) ☒ 501(c)(4) (insert no.) ☐ 4947(a)(1) or ☐ 527

K Check ☐ if the organization is not a section 509(a)(3) supporting organization or a section 527 organization and its gross receipts are normally not more than \$50,000. A Form 990-EZ or Form 990 return is not required though Form 990-N (e-postcard) may be required (see instructions). But if the organization chooses to file a return, be sure to file a complete return.

L Add lines 5b, 6c, and 7b, to line 9 to determine gross receipts. If gross receipts are \$200,000 or more, or if total assets (Part II, line 25, column (B) below) are \$500,000 or more, file Form 990 instead of Form 990-EZ. ▶ \$ 60,329

Part I Revenue, Expenses, and Changes in Net Assets or Fund Balances (see the instructions for Part I)

Check if the organization used Schedule O to respond to any question in this Part I ☐

Revenue	1	Contributions, gifts, grants, and similar amounts received	1	60,325
	2	Program service revenue including government fees and contracts	2	
	3	Membership dues and assessments	3	
	4	Investment income	4	4
	5a	Gross amount from sale of assets other than inventory	5a	
	b	Less: cost or other basis and sales expenses	5b	
	c	Gain or (loss) from sale of assets other than inventory (Subtract line 5b from line 5a)	5c	
	6	Gaming and fundraising events		
	a	Gross income from gaming (attach Schedule G if greater than \$15,000)	6a	
	b	Gross income from fundraising events (not including \$ of contributions from fundraising events reported on line 1) (attach Schedule G if the sum of such gross income and contributions exceeds \$15,000)	6b	
c	Less: direct expenses from gaming and fundraising events	6c		
d	Net income or (loss) from gaming and fundraising events (add lines 6a and 6b and subtract line 6c)	6d		
7a	Gross sales of inventory, less returns and allowances	7a		
b	Less: cost of goods sold	7b		
c	Gross profit or (loss) from sales of inventory (Subtract line 7b from line 7a)	7c		
8	Other revenue (describe in Schedule O)	8		
9	Total revenue. Add lines 1, 2, 3, 4, 5c, 6d, 7c, and 8	9	60,329	
Expenses	10	Grants and similar amounts paid (list in Schedule O)	10	
	11	Benefits paid to or for members	11	
	12	Salaries, other compensation, and employee benefits	12	14,259
	13	Professional fees and other payments to independent contractors	13	40,073
	14	Occupancy, rent, utilities, and maintenance	14	4,419
	15	Printing, publications, postage, and shipping	15	3,230
	16	Other expenses (describe in Schedule O)	16	2,628
17	Total expenses. Add lines 10 through 16	17	64,609	
Net Assets	18	Excess or (deficit) for the year (Subtract line 17 from line 9)	18	-4,280
	19	Net assets or fund balances at beginning of year (from line 27, column (A)) (must agree with end-of-year figure reported on prior year's return)	19	9,322
	20	Other changes in net assets or fund balances (explain in Schedule O)	20	0
	21	Net assets or fund balances at end of year. Combine lines 18 through 20	21	5,042

000002440071

Part II Balance Sheets (see the instructions for Part II)Check if the organization used Schedule O to respond to any question in this Part II ☒

	(A) Beginning of year		(B) End of year
22 Cash, savings, and investments	11,603	22	7,264
23 Land and buildings		23	
24 Other assets (describe in Schedule O)	1,405	24	959
25 Total assets	13,008	25	8,223
26 Total liabilities (describe in Schedule O)	3,686	26	3,181
27 Net assets or fund balances (line 27 of column (B) must agree with line 21)	9,322	27	5,042

Part III Statement of Program Service Accomplishments (see the instructions for Part III)Check if the organization used Schedule O to respond to any question in this Part III ☒

What is the organization's primary exempt purpose?

RENEW & REFORM OUR POLITICAL SYSTEM & GOVERNMENT

Describe the organization's program service accomplishments for each of its three largest program services, as measured by expenses. In a clear and concise manner, describe the services provided, the number of persons benefited, and other relevant information for each program title.

28 ADVOCACY ON THE CAMPAIGN FINANCE ISSUE AND OTHER GOVERNANCE AND POLITICAL REFORM ISSUES

(Grants \$ 0)

If this amount includes foreign grants, check here ☐
Expenses
 (Required for section 501(c)(3) and 501(c)(4) organizations and section 4947(a)(1) trusts, optional for others)

28a 61,897

(Grants \$)

If this amount includes foreign grants, check here ☐

29a

30

(Grants \$)

If this amount includes foreign grants, check here ☐

30a

31 Other program services (describe in Schedule O)

(Grants \$)

If this amount includes foreign grants, check here ☐

31a

32 Total program service expenses (add lines 28a through 31a)

32 61,897

Part IV List of Officers, Directors, Trustees, and Key Employees List each one even if not compensated (see the instructions for Part IV)Check if the organization used Schedule O to respond to any question in this Part IV ☐

(a) Name and title	(b) Average hours per week devoted to position	(c) Reportable compensation (Forms W-2/1099-MISC) (If not paid, enter -0-)	(d) Health benefits, contributions to employee benefit plans, and deferred compensation	(e) Estimated amount of other compensation
See Additional Data Table				

Form 990-EZ

Department of the Treasury
Internal Revenue ServiceShort Form
Return of Organization Exempt From Income TaxUnder section 501(c), 527, or 4947(a)(1) of the Internal Revenue Code
(except black lung benefit trust or private foundation)
Sponsoring organizations of donor advised funds, organizations that operate one or more hospital facilities, and certain controlling organizations as defined in section 512(b)(13) must file Form 990. All other organizations with gross receipts less than \$200,000 and total assets less than \$500,000 at the end of the year may use this form.
The organization may have to use a copy of this return to satisfy state reporting requirements.

OMB No 1545-1150

2011

Open to Public
Inspection

A For the 2011 calendar year, or tax year beginning

and ending

B Check if applicable

- ☐ Address change
☐ Name change
☐ Initial return
☐ Terminated
☐ Amended return
☐ Application pending

C Name of organization

DEMOCRACY 21

Number and street (or P.O. box, if mail is not delivered to street address)

2000 MASSACHUSETTS AVENUE, NW

City or town, state or country, and ZIP + 4

WASHINGTON, DC 20036

D Employer identification number

52-1948022

E Telephone number

202-355-9600

F Group Exemption
NumberG Accounting Method: ☒ Cash ☐ Accrual Other (specify) ▶

I Website: WWW.DEMOCRACY21.ORG

J Tax-exempt status (check only one) — ☐ 501(c)(3) ☒ 501(c)(4) (insert no.) ☐ 4947(a)(1) or ☐ 527 (Form 990, 990-EZ, or 990-PF).K Check ☐ if the organization is not a section 509(a)(3) supporting organization or a section 527 organization and its gross receipts are normally not more than \$50,000. A Form 990-EZ or Form 990 return is not required though Form 990-N (e-postcard) may be required (see instructions). But if the organization chooses to file a return, be sure to file a complete return.

L Add lines 5b, 6c, and 7b, to line 9 to determine gross receipts. If gross receipts are \$200,000 or more, or if total assets (Part II,

line 25, column (B) below) are \$500,000 or more, file Form 990 instead of Form 990-EZ

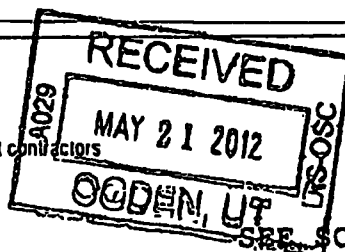
\$ 16,237.

Part I Revenue, Expenses, and Changes in Net Assets or Fund Balances (see the instructions for Part I.)

Check if the organization used Schedule O to respond to any question in this Part I

☒

Revenue	1	Contributions, gifts, grants, and similar amounts received	1	16,227.
	2	Program service revenue including government fees and contracts	2	
	3	Membership dues and assessments	3	
	4	Investment income	4	10.
	5a	Gross amount from sale of assets other than inventory	5a	
	5b	Less: cost or other basis and sales expenses	5b	
	5c	Gain or (loss) from sale of assets other than inventory (Subtract line 5b from line 5a)	5c	
	6	Gaming and fundraising events	6	
	6a	Gross income from gaming (attach Schedule G if greater than \$15,000)	6a	
Expenses	6b	Gross income from fundraising events (not including \$ of contributions from fundraising events reported on line 1) (attach Schedule G if the sum of such gross income and contributions exceeds \$15,000)	6b	
	6c	Less: direct expenses from gaming and fundraising events	6c	
	6d	Net income or (loss) from gaming and fundraising events (add lines 6a and 6b and subtract line 6c)	6d	
	7a	Gross sales of inventory, less returns and allowances	7a	
	7b	Less: cost of goods sold	7b	
	7c	Gross profit or (loss) from sales of inventory (Subtract line 7b from line 7a)	7c	
	8	Other revenue (describe in Schedule O)	8	
	9	Total revenue. Add lines 1, 2, 3, 4, 5c, 6d, 7c, and 8	9	16,237.
	10	Grants and similar amounts paid (list in Schedule O)	10	
	11	Benefits paid to or for members	11	
	12	Salaries, other compensation, and employee benefits	12	12,939.
	13	Professional fees and other payments to independent contractors	13	4,383.
14	Occupancy, rent, utilities, and maintenance	14	2,767.	
15	Printing, publications, postage, and shipping	15	3,261.	
16	Other expenses (describe in Schedule O)	16	2,682.	
17	Total expenses. Add lines 10 through 16	17	26,032.	
Net Assets	18	Excess or (deficit) for the year (Subtract line 17 from line 9)	18	-9,795.
	19	Net assets or fund balances at beginning of year (from line 27, column (A)) (must agree with end-of-year figure reported on prior year's return)	19	19,117.
	20	Other changes in net assets or fund balances (explain in Schedule O)	20	0.
	21	Net assets or fund balances at end of year. Combine lines 18 through 20	21	9,322.



SEE SCHEDULE O

LHA For Paperwork Reduction Act Notice, see the separate instructions.

Form 990-EZ (2011)

GS 14

Exhibit 9

17044420094

Check if Schedule O contains a response or note to any line in this Part III ☐

1 Briefly describe the organization's mission

**TO ADVANCE A NONPARTISAN AGENDA TO REPRESENT THE PUBLIC INTEREST IN ADMINISTRATIVE AND LEGAL PROCEEDINGS
INTERPRETING AND ENFORCING CAMPAIGN FINANCE AND ELECTION LAW**

2 Did the organization undertake any significant program services during the year which were not listed on the prior Form 990 or 990-EZ?

☐ Yes ☒ No

If "Yes," describe these new services on Schedule O

73 Did the organization cease conducting, or make significant changes in how it conducts, any program services?

☐ Yes ☒ No

If "Yes," describe these changes on Schedule O

Describe the organization's program service accomplishments for each of its three largest program services, as measured by expenses. Section 501(c)(3) and 501(c)(4) organizations are required to report the amount of grants and allocations to others, the total expenses, and revenue, if any, for each program service reported.

4a	(Code)	(Expenses \$ 1,317,857 including grants of \$)	(Revenue \$)
REPRESENTING THE PUBLIC INTEREST IN ADMINISTRATIVE AND LEGAL PROCEEDINGS INTERPRETING AND ENFORCING CAMPAIGN FINANCE AND ELECTION LAWS			

4b	(Code) (Expenses \$	including grants of \$) (Revenue: \$
----	-------	----------------	------------------------	----------------

4c	(Code) (Expenses \$	including grants of \$) (Revenue \$
----	-------	----------------	------------------------	---------------

4d	Other program services (Describe in Schedule O)				
	(Expenses \$	including grants of \$		(Revenue \$)

4a	Total program service expenses ▶	1,317,857
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Form **990**

Return of Organization Exempt From Income Tax

OMB No 1545-0047

Department of the Treasury
Internal Revenue Service

Under section 501(c), 527, or 4947(a)(1) of the Internal Revenue Code (except private foundations)
 Do not enter Social Security numbers on this form as it may be made public. By law, the IRS generally cannot redact the information on the form.
 Information about Form 990 and its instructions is at www.irs.gov/form990

2013

Open to Public Inspection

A For the 2013 calendar year, or tax year beginning 01-01-2013, 2013, and ending 12-31-2013

- B Check if applicable:
☐ Address change
☐ Name change
☐ Initial return
☐ Terminated
☐ Amended return
☐ Application pending

C Name of organization
THE CAMPAIGN LEGAL CENTER INC

Doing business as

Number and street (or P.O. box if mail is not delivered to street address) Room/suite
215 E STREET NE

City or town, state or province, country, and ZIP or foreign postal code
WASHINGTON, DC 20002

D Employer identification number

04-3608367

E Telephone number

(202) 736-2200

G Gross receipts \$ 1,480,253

F Name and address of principal officer
J GERALD HEBERT
215 E STREET NE
WASHINGTON, DC 20002

H(a) Is this a group return for subordinates? ☐ Yes ☒ No

H(b) Are all subordinates included? ☐ Yes ☒ No
If "No," attach a list (see instructions)

H(c) Group exemption number

I Tax-exempt status ☒ 501(c)(3) ☐ 501(c)() (insert no.) ☐ 4947(a)(1) or ☐ 527

J Website: WWW.CAMPAIGNLEGALCENTER.ORG

K Form of organization ☒ Corporation ☐ Trust ☐ Association ☐ Other

L Year of formation 2002

M State of legal domicile DC

Part I Summary

Activities & Governance	1	Briefly describe the organization's mission or most significant activities. THE CAMPAIGN LEGAL CENTER IS A NONPARTISAN ORGANIZATION THAT WORKS IN THE AREAS OF (CONTINUED) CAMPAIGN FINANCE, COMMUNICATIONS AND GOVERNMENT ETHICS. IT REPRESENTS THE PUBLIC INTEREST IN ADMINISTRATIVE AND LEGAL PROCEEDINGS WHERE THE NATION'S CAMPAIGN FINANCE, ELECTION, AND RELATED MEDIA LAWS ARE ENFORCED. AT THE FEDERAL ELECTION COMMISSION (FEC), THE FEDERAL COMMUNICATIONS COMMISSION (FCC), THE INTERNAL REVENUE SERVICE (IRS), AND IN THE COURTS.			
	2	Check this box <input checked="" type="checkbox"/> if the organization discontinued its operations or disposed of more than 25% of its net assets			
	3	Number of voting members of the governing body (Part VI, line 1a)	3	8	
	4	Number of independent voting members of the governing body (Part VI, line 1b)	4	7	
	5	Total number of individuals employed in calendar year 2013 (Part V, line 2a)	5	10	
	6	Total number of volunteers (estimate if necessary)	6	11	
	7a	Total unrelated business revenue from Part VIII, column (C), line 12	7a	0	
	7b	Net unrelated business taxable income from Form 990-T, line 34	7b	0	
	Revenue	8	Contributions and grants (Part VIII, line 1h)	1,606,217	1,459,353
		9	Program service revenue (Part VIII, line 2g)	11,650	13,031
10		Investment income (Part VIII, column (A), lines 3, 4, and 7d)	2,359	2,649	
11		Other revenue (Part VIII, column (A), lines 5, 6d, 8c, 9c, 10c, and 11e)	3,693	5,220	
12		Total revenue—add lines 8 through 11 (must equal Part VIII, column (A), line 12)	1,623,919	1,480,253	
Expenses		13	Grants and similar amounts paid (Part IX, column (A), lines 1-3)	0	0
	14	Benefits paid to or for members (Part IX, column (A), line 4)	0	0	
	15	Salaries, other compensation, employee benefits (Part IX, column (A), lines 5-10)	923,512	1,221,936	
	16a	Professional fundraising fees (Part IX, column (A), line 11e)	0	0	
	16b	Total fundraising expenses (Part IX, column (D), line 25) <input checked="" type="checkbox"/> 181,104			
	17	Other expenses (Part IX, column (A), lines 11a-11d, 11f-24e)	208,535	259,075	
	18	Total expenses. Add lines 13-17 (must equal Part IX, column (A), line 25)	1,132,047	1,481,011	
	19	Revenue less expenses. Subtract line 18 from line 12	491,872	-758	
Net Assets or Fund Balances	20	Total assets (Part X, line 16)	1,225,131	1,242,703	
	21	Total liabilities (Part X, line 26)	40,535	58,865	
	22	Net assets or fund balances. Subtract line 21 from line 20	1,184,596	1,183,838	

Part II Signature Block

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than officer) is based on all information of which preparer has any knowledge.

Sign Here	Signature of officer	Date			
	J GERALD HEBERT EXECUTIVE DIRECTOR	2014 05-07			
Paid Preparer Use Only	Print/type preparer's name KWAN SHIH	Preparer's signature	Date	Check <input type="checkbox"/> if self-employed	PIIN P01060463
	Firm's name <input checked="" type="checkbox"/> DROLET & ASSOCIATES PLLC				Firm's EIN <input checked="" type="checkbox"/> 52-2057543
	Firm's address <input checked="" type="checkbox"/> 1901 L STREET NW 250				Phone no (702) 822-0717
	WASHINGTON, DC 20036				

May the IRS discuss this return with the preparer shown above? (see instructions) ☒ Yes ☐ No

Check if Schedule O contains a response or note to any line in this Part III

**TO ADVANCE A NONPARTISAN AGENDA TO REPRESENT THE PUBLIC INTEREST IN ADMINISTRATIVE AND LEGAL PROCEEDINGS
INTERPRETING AND ENFORCING CAMPAIGN FINANCE AND ELECTION LAW**

☐ Yes ☒ No

☐ Yes ☒ No

4 Describe the organization's program service accomplishments for each of its three largest program services, as measured by
4 expenses. Section 501(c)(3) and 501(c)(4) organizations are required to report the amount of grants and allocations to others,
4 the total expenses, and revenue, if any, for each program service reported.

4b	(Code) (Expenses \$	including grants of \$) (Revenue \$)
----	-------	----------------	------------------------	---------------	---

4c	(Code) (Expenses \$	including grants of \$) (Revenue \$)
----	-------	----------------	------------------------	---------------	---

4d	Other program services (Describe in Schedule O)			
	(Expenses \$	including grants of \$	(Revenue \$)

4e	Total program service expenses ▶	1,012,636	
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Form 990

Return of Organization Exempt From Income Tax

OMB No 1545-0047



Under section 501(c), 527, or 4947(a)(1) of the Internal Revenue Code (except black lung benefit trust or private foundation)

2012

Department of the Treasury
Internal Revenue Service

The organization may have to use a copy of this return to satisfy state reporting requirements

Open to Public
Inspection

A For the 2012 calendar year, or tax year beginning 01-01-2012, 2012, and ending 12-31-2012

B Check if applicable:

☐ Address change☐ Name change☐ Initial return☐ Terminated☐ Amended return☐ Application pending

C Name of organization

THE CAMPAIGN LEGAL CENTER INC

Doing business as

Number and street (or P.O. box if mail is not delivered to street address) Room/suite

215 E STREET NE

City or town, state or country, and ZIP + 4

WASHINGTON, DC 20002

D Employer identification number

04-3608387

E Telephone number

(202) 736-2200

G Gross receipts \$ 1,623,919

F Name and address of principal officer

J GERALD HEBERT
215 E STREET NE
WASHINGTON, DC 20002H(a) Is this a group return for affiliates? ☐ Yes ☒ NoH(b) Are all affiliates included? ☐ Yes ☒ No
If "No," attach a list (see instructions)

H(c) Group exemption number ▶

I Tax-exempt status ☒ 501(c)(3) ☐ 501(c) () (insert no.) ☐ 4947(a)(1) or ☐ 527

J Website: ▶ WWW.CAMPAIGNLEGALCENTER.ORG

K Form of organization ☒ Corporation ☐ Trust ☐ Association ☐ Other ▶

L Year of formation 2002

M State of legal domicile DC

Part I Summary

Activities & Governance

1 Briefly describe the organization's mission or most significant activities:

THE CAMPAIGN LEGAL CENTER IS A NONPARTISAN ORGANIZATION THAT WORKS IN THE AREAS OF (CONTINUED) CAMPAIGN FINANCE, COMMUNICATIONS AND GOVERNMENT ETHICS. IT REPRESENTS THE PUBLIC INTEREST IN ADMINISTRATIVE AND LEGAL PROCEEDINGS WHERE THE NATION'S CAMPAIGN FINANCE, ELECTION, AND RELATED MEDIA LAWS ARE ENFORCED AT THE FEDERAL ELECTION COMMISSION (FEC), THE FEDERAL COMMUNICATIONS COMMISSION (FCC), THE INTERNAL REVENUE SERVICE (IRS), AND IN THE COURTS.

2 Check this box ☐ if the organization discontinued its operations or disposed of more than 25% of its net assets

3	Number of voting members of the governing body (Part VI, line 1a)	3	10
4	Number of independent voting members of the governing body (Part VI, line 1b)	4	9
5	Total number of individuals employed in calendar year 2012 (Part V, line 2a)	5	9
6	Total number of volunteers (estimate if necessary)	6	8
7a	Total unrelated business revenue from Part VIII, column (C), line 12	7a	0
7b	Net unrelated business taxable income from Form 990-T, line 34	7b	0

Revenue

		Prior Year	Current Year
8	Contributions and grants (Part VIII, line 1h)	833,488	1,606,217
9	Program service revenue (Part VIII, line 2g)	0	11,650
10	Investment income (Part VIII, column (A), lines 3, 4, and 7d)	4,057	2,359
11	Other revenue (Part VIII, column (A), lines 5, 6d, 8c, 9c, 10c, and 11e)	0	3,693
12	Total revenue—add lines 8 through 11 (must equal Part VIII, column (A), line 12)	837,545	1,623,919
13	Grants and similar amounts paid (Part IX, column (A), lines 1-3)	0	0
14	Benefits paid to or for members (Part IX, column (A), line 4)	0	0
15	Salaries, other compensation, employee benefits (Part IX, column (A), lines 5-10)	920,265	923,512
16a	Professional fundraising fees (Part IX, column (A), line 11e)	0	0
b	Total fundraising expenses (Part IX, column (D), line 25) ▶ 147,967		
17	Other expenses (Part IX, column (A), lines 11a-11d, 11f-24e)	187,440	208,535
18	Total expenses—add lines 13-17 (must equal Part IX, column (A), line 25)	1,107,705	1,132,047
19	Revenue less expenses—subtract line 18 from line 12	-270,160	491,872

Net Assets or Fund Balances

		Beginning of Current Year	End of Year
20	Total assets (Part X, line 16)	743,732	1,225,131
21	Total liabilities (Part X, line 26)	51,008	40,535
22	Net assets or fund balances—subtract line 21 from line 20	692,724	1,184,596

Part II Signature Block

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than officer) is based on all information of which preparer has any knowledge.

Sign Here

Signature of officer

2013-11-15

Date

J GERALD HEBERT EXECUTIVE DIRECTOR

Type or print name and title

Paid Preparer Use Only

Print/Type preparer's name
HOLLY CAPOREALE

Preparer's signature

Date

Check ☐ if self-employed
PTIN P00235605

Firm's name ▶ DROLET & ASSOCIATES PLLC

Firm's EIN ▶ 52-2057543

Firm's address ▶ 1901 L STREET NW 250

Phone no (202) 622-0717

WASHINGTON, DC 20036

May the IRS discuss this return with the preparer shown above? (see instructions) ☒ Yes ☐ No

17044440000

Part III Statement of Program Service Accomplishments

Check if Schedule O contains a response to any question in this Part III ☐

1 Briefly describe the organization's mission:

TO ADVANCE A NONPARTISAN AGENDA TO REPRESENT THE PUBLIC INTEREST IN ADMINISTRATIVE AND LEGAL PROCEEDINGS
INTERPRETING AND ENFORCING CAMPAIGN FINANCE AND ELECTION LAW

2 Did the organization undertake any significant program services during the year which were not listed on the prior Form 990 or 990-EZ? ☐ Yes ☒ No

If "Yes," describe these new services on Schedule O

Did the organization cease conducting, or make significant changes in how it conducts, any program services? ☐ Yes ☒ No

If "Yes," describe these changes on Schedule O

Describe the organization's program service accomplishments for each of its three largest program services, as measured by expenses. Section 501(c)(3) and 501(c)(4) organizations are required to report the amount of grants and allocations to others, the total expenses, and revenue, if any, for each program service reported.

(Code)	(Expenses \$ 772,165	including grants of \$	(Revenue \$ 15,343)
REPRESENTING THE PUBLIC INTEREST IN ADMINISTRATIVE AND LEGAL PROCEEDINGS INTERPRETING AND ENFORCING CAMPAIGN FINANCE AND ELECTION LAWS			

(Code)	(Expenses \$	including grants of \$	(Revenue \$)
---------	--------------	------------------------	---------------

4c (Code)	(Expenses \$	including grants of \$	(Revenue \$)
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4d Other program services (Describe in Schedule O)

(Expenses \$	including grants of \$	(Revenue \$)
--------------	------------------------	---------------

4e Total program service expenses **772,165**

Form **990**

Return of Organization Exempt From Income Tax

OMB No 1545-0047

Department of the Treasury
Internal Revenue Service

Under section 501(c), 527, or 4947(a)(1) of the Internal Revenue Code (except black lung benefit trust or private foundation)

2011

Open to Public Inspection

The organization may have to use a copy of this return to satisfy state reporting requirements

A For the 2011 calendar year, or tax year beginning 01-01-2011 and ending 12-31-2011

B Check if applicable:

☐ Address change

☐ Name change

☐ Initial return

☐ Terminated

☐ Amended return

☐ Application pending

C Name of organization
THE CAMPAIGN LEGAL CENTER LLC

D Doing Business As

E Number and street (or P.O. box if mail is not delivered to street address) Room/suite
215 E STREET NE

F City or town, state or country, and ZIP + 4
WASHINGTON, DC 20002

F Name and address of principal officer
J GERALD HEBERT
215 E STREET NE
WASHINGTON, DC 20002

D Employer identification number

09-1608387

E Telephone number

(202) 736-2200

G Gross receipts \$ 837,543

H(a) Is this a group return for affiliates? ☐ Yes ☒ No

H(b) Are all affiliates included? ☐ Yes ☒ No
If "No," attach a list (see instructions)

H(c) Group exemption number

I Tax-exempt status ☒ 501(c)(3) ☐ 501(c) () (insert no.) ☐ 4947(a)(1) or ☐ 527

J Website: WWW.CAMPAIGNLEGALCENTER.ORG

K Form of organization ☒ Corporation ☐ Trust ☐ Association ☐ Other

L Year of formation 2002

M State of legal domicile DC

Part I Summary

Activities & Governance	1 Briefly describe the organization's mission or most significant activities THE CAMPAIGN LEGAL CENTER IS A NONPARTISAN ORGANIZATION THAT WORKS IN THE AREAS OF (CONTINUED) CAMPAIGN FINANCE, COMMUNICATIONS AND GOVERNMENT ETHICS. IT REPRESENTS THE PUBLIC INTEREST IN ADMINISTRATIVE AND LEGAL PROCEEDINGS WHERE THE NATION'S CAMPAIGN FINANCE, ELECTION, AND RELATED MEDIA LAWS ARE ENFORCED AT THE FEDERAL ELECTION COMMISSION (FEC), THE FEDERAL COMMUNICATIONS COMMISSION (FCC), THE INTERNAL REVENUE SERVICE (IRS), AND IN THE COURTS		
	2 Check this box <input type="checkbox"/> if the organization discontinued its operations or disposed of more than 25% of its net assets		
	3 Number of voting members of the governing body (Part VI, line 1a)	3	10
	4 Number of independent voting members of the governing body (Part VI, line 1b)	4	9
	5 Total number of individuals employed in calendar year 2011 (Part V, line 2a)	5	8
	6 Total number of volunteers (estimate if necessary)	6	8
Revenue	7a Total unrelated business revenue from Part VIII, column (C), line 12	7a	0
	7b Net unrelated business taxable income from Form 990-T, line 34	7b	0
Expenses	8 Contributions and grants (Part VIII, line 1h)	Prior Year	Current Year
	9 Program service revenue (Part VIII, line 2g)	526,354	833,488
	10 Investment income (Part VIII, column (A), lines 3, 4, and 7d)	167,025	0
	11 Other revenue (Part VIII, column (A), lines 5, 6d, 8c, 9c, 10c, and 11e)	12,848	4,057
	12 Total revenue—add lines 8 through 11 (must equal Part VIII, column (A), line 12)	0	0
	13 Grants and similar amounts paid (Part IX, column (A), lines 1-3)	706,227	837,545
Net Assets or Fund Balances	14 Benefits paid to or for members (Part IX, column (A), line 4)	0	0
	15 Salaries, other compensation, employee benefits (Part IX, column (A), lines 5-10)	0	0
	16a Professional fundraising fees (Part IX, column (A), line 11e)	973,510	920,265
	b Total fundraising expenses (Part IX, column (D), line 25) ▶ 224,492	0	0
	17 Other expenses (Part IX, column (A), lines 11a-11d, 11f-24e)	209,748	187,440
	18 Total expenses Add lines 13-17 (must equal Part IX, column (A), line 25)	1,183,258	1,107,705
Net Assets or Fund Balances	19 Revenue less expenses Subtract line 18 from line 12	-477,031	-270,160
	20 Total assets (Part X, line 16)	Beginning of Current Year	End of Year
		1,008,523	743,732
		21 Total liabilities (Part X, line 26)	45,639
22 Net assets or fund balances Subtract line 21 from line 20	962,884	692,724	

Part II Signature Block

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than officer) is based on all information of which preparer has any knowledge.

Sign Here	Signature of officer	2012-10-26		
	J GERALD HEBERT EXECUTIVE DIRECTOR	Date		
Paid Preparer's Use Only	Preparer's signature	Date	Check if self-employed <input type="checkbox"/>	Preparer's taxpayer identification number (see instructions)
	HOLLY CAPOREALE			000735685
	Firm's name (or yours if self-employed), address, and ZIP + 4			EUIN ▶ 52-7057543
	DROLLI & ASSOCIATES PLLC 1901 L STREET NW 250 WASHINGTON, DC 20036			Phone no ▶ (202) 622-0717

May the IRS discuss this return with the preparer shown above? (see instructions) ☒ Yes ☐ No

10102044071

Part III Statement of Program Service Accomplishments

Check if Schedule O contains a response to any question in this Part III ☐

1 Briefly describe the organization's mission
TO ADVANCE A NONPARTISAN AGENDA TO REPRESENT THE PUBLIC INTEREST IN ADMINISTRATIVE AND LEGAL PROCEEDINGS
INTERPRETING AND ENFORCING CAMPAIGN FINANCE AND ELECTION LAW

2 Did the organization undertake any significant program services during the year which were not listed on the prior Form 990 or 990-EZ? ☐ Yes ☒ No

If "Yes," describe these new services on Schedule O

Did the organization cease conducting, or make significant changes in how it conducts, any program services? ☐ Yes ☒ No

If "Yes," describe these changes on Schedule O

Describe the organization's program service accomplishments for each of its three largest program services, as measured by expenses. Section 501(c)(3) and 501(c)(4) organizations and section 4947(a)(1) trusts are required to report the amount of grants and allocations to others, the total expenses, and revenue, if any, for each program service reported.

4a (Code:) (Expenses \$ 704,271 including grants of \$) (Revenue \$)
REPRESENTING THE PUBLIC INTEREST IN ADMINISTRATIVE AND LEGAL PROCEEDINGS INTERPRETING AND ENFORCING CAMPAIGN FINANCE AND ELECTION LAWS

4b (Code:) (Expenses \$ including grants of \$) (Revenue \$)

4c (Code:) (Expenses \$ including grants of \$) (Revenue \$)

4d Other program services (Describe in Schedule O)
(Expenses \$ including grants of \$) (Revenue \$)

4e Total program service expenses \$ 704,271

Exhibit 10

17044420103



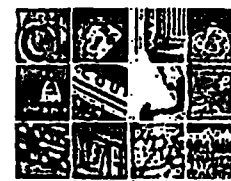
Publications & News

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WilmerHale 2014 in Review

January 26, 2015



Dear Clients and Friends,

We want to take this opportunity to express our thanks as we look back on an exciting year that marked the successful conclusion to our first decade as WilmerHale. There is no greater testament to the vision that drove our 2004 merger than the caliber of the work entrusted to us by our clients in 2014. We are profoundly grateful for your support, and proud to share some of the year's accomplishments.

Many of our largest matters of the past 12 months crossed disciplinary boundaries, as clients called on us to navigate multifaceted legal and strategic challenges. We worked with leading companies and financial institutions facing sensitive government investigations and related proceedings on issues ranging from high-frequency trading and market access to government contracting and whistleblower claims. Our strategic response and cybersecurity teams—joined by some of the notable senior laterals who came to the firm in 2014—worked with Target and other household-name clients to respond to many of the most significant cyber breach incidents in recent history.

Highlights of the year included a precedent-setting Federal Circuit decision for Apple that threw out \$380 million in patent damages awarded to patentee VmeiX and a US Supreme Court victory for POM Wonderful—one of six US high court wins for the firm in 2014. We also succeeded in the rare feat of persuading the European Union's highest court to grant a notable reduction in fines imposed on a client for alleged cartel participation. At the same time, we secured successful settlements in a diverse range of significant trials and arbitrations with billions of dollars at stake, obtained victories in securities class actions and prominent bankruptcy and other litigation, handled major capital markets transactions, and established our leadership position in the new field of post-grant patent proceedings.

Each of our departments made critical contributions to our success in 2014. Below, we share a brief cross-section of their achievements.

Litigation/Controversy. In 2014, our litigators obtained victories at all levels of the US justice system and internationally. We achieved a significant win when a FINRA arbitration panel denied a receiver's claims against our client Jefferies in the wake of the collapse of a Colorado Ponzi scheme in which a now-disgraced investment adviser had cleared and settled trades through our client's clearing division. For Facebook, we secured an important win in a German appeals court, blocking a state data protection order that would have required companies to deactivate their Facebook fan pages. Two weeks into a California jury trial, we achieved a global settlement of all patent disputes involved in the long-running "patent war" between our client MediaTek and Freescale, the resolution coming immediately after we won judgment as a matter of law on the key asserted patent. Among many important Federal Circuit wins, we secured the affirmation of a previous victory at the US International Trade Commission preventing X2Y Attenuators from excluding the import of billions of dollars' worth of Intel, Apple and HP products into the United States, and obtained the court's backing of a 2013 jury verdict that LogMeIn's remote access products and services do not infringe a patent asserted by 01 Communique Laboratory.

Intellectual Property. Our IP Department marked a significant milestone in 2014, filing its 100th *Inter Partes* Review (IPR) since the passage of the America Invents Act. We have thus far secured victory in nine IPRs that have reached final decisions on the merits. At the same time, we filed more than 1,890 patent applications—for clients including a developer of photovoltaic energy technology; a biotech company working on the treatment of breast cancer, leukemia and lymphoma using polypeptide variants; many startups in

the cybersecurity space; and a number of prestigious universities—and more than 3,300 trademark applications in the United States and Europe. Our IP lawyers played a critical role in many of the most high-profile patent litigation matters handled by the firm in 2014, as well as numerous trademark disputes. One notable success was a favorable settlement obtained for pro bono client ChapterHouse Studios in its dispute with Games Workshop, maker of the Warhammer 40,000 tabletop role-playing game. Games Workshop had sued our client for trademark and copyright infringement with respect to the latter's production of game piece accessories that allowed players to customize Warhammer models.

Regulatory and Government Affairs. We expanded our capabilities in the cybersecurity, defense, education, healthcare and intelligence sectors, and led the field representing a multitude of clients in congressional investigations. High-profile clients turned to us for help navigating government disputes on a diverse range of issues, including a large IT company involved in a copyright and contractual dispute with an entity created to develop and operate a state health insurance exchange under the Affordable Care Act. We undertook the creation of a best-in-class ethics and environmental compliance program for Pacific Gas and Electric, and helped some of the nation's top universities address the challenging issue of campus sexual misconduct. Our antitrust lawyers assisted companies with merger filings for major acquisitions—including global oilfield services company Baker Hughes in its proposed acquisition by Halliburton for \$35 billion—and helped clients respond to civil and criminal antitrust probes. Key examples included our successful representation of an energy company in investigations and litigation stemming from allegations of "bid-rigging" in Michigan oil and gas leasing, and our ongoing work for Caphalon in a case poised to become the first "reverse payment" Hatch-Waxman matter tried by the Federal Trade Commission in the wake of Actavis.

Securities. Our securities lawyers played a critical role in many of our largest and most significant matters at the nexus of congressional inquiries, litigation, and law enforcement and regulatory proceedings, while assisting clients on many other aspects of their most sensitive crises. Although many of our matters—including a number of our greatest achievements of 2014—remain confidential, we successfully advised clients in connection with investigations and contested proceedings pertaining to diverse issues, including high-frequency trading, insider trading, cybersecurity, and broker-dealer and investment adviser rules and regulations. Key matters also involved accounting for mineral leases; insurance contract sales; securities sales practices; auditing standards; US and non-US anti-corruption rules, and sales of, and accounting for, mortgages and mortgage-related securities. We secured an important victory for a successful direct-selling company, when a federal district court dismissed all fraud claims in a shareholder class action lawsuit. In the regulatory arena, a highlight was our engagement by a consortium of all of the equities and options exchanges in the United States to provide guidance in connection with the development of a market-wide Consolidated Audit Trail (CAT) mandated by the SEC. The CAT is intended to enhance regulators' ability to monitor and analyze trading activity. Our broker-dealer team also formulated the documentation for the first bilateral Bitcoin swap transaction and helped our client secure CFTC permission to list the first Bitcoin swap contract for exchange trading.

Transactional. The Transactional Department had a very successful 2014, maintaining its focus on the technology, life sciences and financial services sectors. All of its practices—Bankruptcy and Financial Restructuring, Corporate, Labor and Employment, Real Estate, and Tax—played a critical role. We served as issuer's counsel or underwriters' counsel in more than 50 public offerings and Rule 144A placements raising approximately \$13 billion, including 10 initial public offerings, and represented clients in M&A and technology licensing transactions with a dollar value in excess of \$15 billion. Key deals of the year included Analog Devices' acquisition of Hittite Microwave for \$2.5 billion; Durela Therapeutics' acquisition by Actavis for \$675 million; and FMS Wertmanagement's sale of a portfolio of highly complex commercial real estate loans. Other highlights included Ophthotech's ex-US licensing commercialization collaboration with Novartis for Fovista, Ophthotech's drug for the treatment of wet age-related macular degeneration, and IPOs for Cerulean Pharma and Tokai Pharmaceuticals. We represented prominent venture capital funds and innovative emerging companies in closing hundreds of private financings raising more than \$5 billion. Our Emerging Company Practice unveiled WilmerHaleLaunch.com, a website offering vital information, tools and connections for startups. Our bankruptcy lawyers successfully settled massive US federal environmental and civil RICO claims relating to the bankruptcy of Getty Petroleum, and represented secured noteholders in the high-profile bankruptcies of Energy Futures Holding Corp. and Mometive.

Pro Bono and Community Service. We were proud to perpetuate our culture of service through important pro bono work and volunteer efforts. We helped achieve a life-changing victory for longtime client Henry Lee McCollum when new DNA evidence prompted his exoneration and release from prison after 30 years on North Carolina's death row. Working with the NAACP Legal Defense and Education Fund, our lawyers secured a landmark civil rights victory when a federal court in Texas struck down the state's highly restrictive voter photo identification law as unconstitutional and as a violation of section 2 of the Voting Rights Act. We obtained two significant US Supreme Court wins—one reversing a Massachusetts law restricting speech near reproductive healthcare clinics that perform abortions, and the other prohibiting Florida's use of a clinically arbitrary IQ test score cutoff to determine whether an individual has an intellectual disability and is thus ineligible for the death penalty. Other high-profile pro bono wins included the successful settlement of federal litigation over the denial of a Norwalk, Connecticut, zoning permit for our client, the Al-Medany Islamic Center of Norwalk, to build a mosque; our work, with the Department of State, to secure the prison release and admission to the United States of a Vietnamese human rights advocate; and our victory on behalf of Congressman Chris Van Hollen concerning political campaign donor disclosure.

Your confidence and support have made it possible for us to embrace the challenges and opportunities of the past 12 months and deliver notable results. We look forward to the year ahead, in which we have pledged a renewed focus on competitive budgets and rigorous matter management to ensure that we deliver a level of value and service that matches the quality of our legal work.

Susan W. Murley

Robert T. Novick

Susan W. Murley
Co-Managing Partner

Robert T. Novick
Co-Managing Partner

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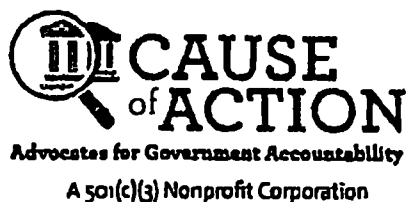
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Exhibit 11

17044420107





April 16, 2015

SENT VIA CERTIFIED MAIL AND EMAILED TO STAFF

The Honorable Charles W. Dent, Chairman
The Honorable Linda T. Sanchez, Ranking Member
U.S. House Committee on Ethics
1015 Longworth House Office Building
Washington, DC 20515

Re: Request for Investigation

Dear Chairman Dent and Ranking Member Sanchez,

Cause of Action is a non-profit, nonpartisan government oversight group committed to ensuring that the regulatory process is transparent, fair, and accountable. As part of Cause of Action's oversight work, we often discover that Members of Congress – who are charged with checking the prerogative of Executive branch agencies through their own power to appropriate and to conduct legislative oversight – are often part of what obstructs regulatory fairness.¹

Today, Cause of Action filed an amicus brief in support of appellants in *Van Hollen v. Federal Election Commission*, currently before the U.S. Court of Appeals for the D.C. Circuit. Plaintiff-Appellee Christopher Van Hollen, Jr. (D-Md.), a Member of Congress, has challenged a Federal Election Commission (FEC) regulation concerning reporting requirements for the disclosure of donors. The FEC has been using taxpayer resources to defend itself against Representative Van Hollen since 2011 on the basis of the Congressman's charge that the FEC's regulation on electioneering communications promotes dark money, which harms the public. As our amicus brief contends, Representative Van Hollen's rhetoric about "dark money" is legally baseless. But it also turns out that Representative Van Hollen's rhetoric is a straw man. We write to request an investigation of Representative Van Hollen because, for several years, the Congressman has been receiving hundreds of thousands of dollars in gifts or contributions that he has failed to disclose.

¹ See, e.g., Letter from Cause of Action to Sens. Barbara Boxer & Johnny Isakson, U.S. S. Select Comm. on Ethics (Dec. 16, 2013) (requesting an investigation into Senator Harry Reid's conflicts of interest in the EB-5 visa program), available at <http://goo.gl/WExKnw>.

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Ironically, these gifts or contributions were made to support Representative Van Hollen's "dark money" legal crusade. It is perhaps politics as usual that taxpayer dollars have been wasted on this campaign against money in politics. But it is utterly hypocritical and unethical that Representative Van Hollen has broken the laws requiring our public servants to disclose the gifts or contributions they receive.

When it comes to disclosure, Representative Van Hollen has failed to put his money where his mouth is.

Discussion

For the past four years, Representative Van Hollen has been receiving *pro bono* legal services and failing to disclose them either as gifts, as required by House ethics rules, or as contributions to his campaign, as required by the Federal Election Campaign Act (FECA). During this same period, Representative Van Hollen has attempted to advance the so-called DISCLOSE Act, which would increase the disclosure obligations of corporations and labor unions when exercising their First Amendment rights.² In 2011, Representative Van Hollen also sued the FEC claiming that it had acted arbitrarily and capriciously when it promulgated a regulation that limited disclosure of certain donors to corporations and labor unions to those who donate for the purpose of furthering electioneering communications.³ At the same time, Representative Van Hollen filed a rulemaking petition at the FEC to request revision to an existing regulation that he contended improperly allowed nonprofit groups to keep secret those donors whose funds were used for independent expenditures in federal elections.⁴

An April 21, 2011 press release by Democracy 21, a nonprofit advocacy group, announced that its "Project Supreme Court" legal team was representing Representative Van Hollen in both the FEC lawsuit and the FEC rulemaking petition.⁵ The press release stated that "[l]awyers from Democracy 21 and from the Campaign Legal Center are also members of the *pro bono* legal team for the lawsuit and for the Van Hollen FEC rulemaking petition, which was prepared by Don Simon, outside Counsel for Democracy 21."⁶ An examination of Democracy 21's Form 990's for the most recent three years reported reveals that it paid Mr. Simon, who also is a Democracy 21 board member, more than \$227,000 between 2011 and 2013 for his legal services.⁷ In addition, the lead counsel for Representative Van Hollen in the FEC lawsuit is the

² See U.S. Representative Chris Van Hollen, Van Hollen Reintroduces DISCLOSE Act (Jan. 3, 2013), <http://goo.gl/Kw9xHh> (last visited Apr. 16, 2015).

³ Compl., *Van Hollen v. FEC*, No. 11-766, 851 F. Supp. 2d 69 (D.D.C. Apr. 21, 2011).

⁴ Press Release, Democracy 21, *Van Hollen Lawsuit Challenges FEC Regulations as Contrary to Law and Responsible for Eviscerating Donor Disclosure* (Apr. 21, 2011), available at <http://goo.gl/FnXmWd>.

⁵ *Id.*

⁶ *Id.*

⁷ See Democracy 21 Education Fund, Form 990 at Schedule L pt. IV (2013) (\$68,520 for legal services); Democracy 21 Education Fund, Form 990 at Schedule L pt. IV (2012) (\$79,558 for legal services); Democracy 21 Education Fund, Form 990 at Schedule L pt. IV (2011) (\$79,337 for legal services).

law firm of WilmerHale LLP, which has reported that it is providing its services in the matter *pro bono*.⁸

Under House Rules, Members may not accept any gift except as specifically allowed by the House Rules.⁹ The Rules define gift broadly to include "gifts of services"¹⁰ and therefore the value of legal services provided to a Member at no or discounted cost is a "gift" under the House Rules.¹¹ A gift of legal services to a Member is not permissible, however, unless it constitutes a "contribution" as defined by FECA¹² or "a contribution or other payment to a legal expense fund . . . made in accordance with the restrictions and disclosure requirements of the Committee on Ethics."¹³ In addition, the Ethics in Government Act requires Members to disclose gifts in an annual financial statement¹⁴ if the gift aggregates to more than \$350 from a single source, subject to exclusions not applicable here.¹⁵

This Committee previously has determined that a third party paying a Member's legal expenses constitutes an improper gift in violation of House Rules and that such gifts must be disclosed and repaid.¹⁶ As described above, the Form 990 documents filed by Democracy 21 suggest that Representative Van Hollen may have received an impermissible gift of legal services that he has failed to disclose resulting from payment by a third party of his legal expenses.

As for the other legal services Representative Van Hollen has received relating to the FEC lawsuit and petition for rulemaking, the Regulations promulgated by the Committee on Ethics¹⁷ require prior written permission to establish a legal expense fund to receive donations

⁸ See WilmerHale 2014 in Review (Jan. 26, 2015) (listing Van Hollen matter under *pro bono* services provided), <http://goo.gl/INVJaA> (last visited Apr. 16, 2015).

⁹ House Rule 25, cl. 5(a)(1)(A)(i); see also House Rule 23, cl. 4 ("A Member, Delegate, Resident Commissioner, officer, or employee of the House may not accept gifts except as provided by clause 5 of rule XXV."); U.S. H.R. COMM. ON STANDARDS OF OFFICIAL CONDUCT, HOUSE ETHICS MANUAL 30 (2008) ("The House gift rule provides that a Member, officer, or employee may not knowingly accept any gift except as provided in the rule. The rule is comprehensive, i.e., a House Member or staff person may not accept anything of value from anyone – whether in one's personal life or one's official life – unless acceptance is allowed under one of the rule's provisions.").

¹⁰ House Rule 25, cl. 5(a)(2)(A) ("In this clause the term 'gift' means a gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value. The term includes gifts of services, training, transportation, lodging, and meals, whether provided in-kind, by purchase of a ticket, payment in advance, or reimbursement after the expense has been incurred.").

¹¹ *Id.*; U.S. H.R. COMM. ON ETHICS, IN THE MATTER OF ALLEGATIONS RELATING TO REPRESENTATIVE JEAN SCHMIDT, H.R. REP. NO. 112-195, at 16 (2011) [hereinafter *In re Rep. Jean Schmidt*], available at <http://goo.gl/C7hsRP>.

¹² House Rule 25, cl. 5(a)(3)(B).

¹³ *Id.* at cl. 5(a)(3)(E).

¹⁴ See generally, 5 U.S.C. app. § 102.

¹⁵ U.S. H.R. COMM. ON ETHICS, INSTRUCTION GUIDE FOR COMPLETING FINANCIAL DISCLOSURE STATEMENTS AND PERIODIC TRANSACTION REPORTS 33-34 (2014), available at <http://goo.gl/UOyiY2>.

¹⁶ *In re Rep. Jean Schmidt*, *supra* note 11, at 3, 16-19.

¹⁷ See Memorandum from the U.S. H.R. Comm. on Ethics to all Members, Officers, & Emps., Reg. 1.1 (Dec. 20, 2011) (issuing and appending revised legal expense fund regulations, effective Jan. 1, 2012) [hereinafter *Legal Expense Fund Regulations*], available at <http://goo.gl/uqJaUA>.

"in cash or in kind" to pay for legal expenses,¹⁸ place specific limitations on the fund's purpose¹⁹ and the amounts that can be contributed by any one donor,²⁰ limit how the money in the fund may be used,²¹ and stipulate specific disclosure and reporting requirements.²² The Regulations permit a Member to establish such a fund in connection with, *inter alia*, "a civil action filed in a Member's official capacity challenging the validity of a federal law or regulation,"²³ and the Member may receive unlimited *pro bono* legal services toward that end,²⁴ but for other permitted purposes, such as for an "individual's candidacy for, or election to, federal office,"²⁵ *pro bono* legal services must be valued at fair market value and are subject to the Regulations' contribution limits.²⁶

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In the present case, Representative Van Hollen's rulemaking petition falls outside of the kinds of legal services for which a Member may receive unlimited *pro bono* services. With respect to the FEC lawsuit, the District Court treated him as a private citizen with "informational standing."²⁷ This means that, had Representative Van Hollen set up a legal expense fund, he would have been prohibited from receiving unlimited *pro bono* services with respect to either the FEC rulemaking petition or the FEC lawsuit and that no single law firm or nonprofit organization could have provided any *pro bono* services beyond the \$5,000/year limit established by the Regulations.²⁸ In any event, Representative Van Hollen does not appear to have established a legal expense fund of any kind during the pendency of the FEC lawsuit and rulemaking petition, nor has he made any disclosures relating thereto.²⁹ Indeed, a review of Representative Van Hollen's financial disclosure statements from 2011 to 2013 shows that he has disclosed no gifts of any kind.³⁰

Representative Van Hollen fares no better under FECA. The statute defines contributions to include "anything of value [given] . . . for the purpose of influencing any election for Federal office" or "the payment by any person of compensation for the personal services of another person which are rendered to a political committee without charge for any purpose."³¹ FEC regulations provide that the provision of services at less than the fair market value is a

¹⁸ Legal Expense Fund Regulations, Reg. 1.1.

¹⁹ *Id.* Regs. 1.2, 1.3.

²⁰ *Id.* Regs. 3.5, 3.6, 3.8.

²¹ *Id.* ch. 3.

²² *Id.* ch. 4.

²³ *Id.* Reg. 1.2(C).

²⁴ *Id.* Reg. 3.7(B).

²⁵ *Id.* Reg. 1.2(A).

²⁶ *Id.* Regs. 3.6, 3.8.

²⁷ *Van Hollen*, 851 F. Supp. 2d at 77-78.

²⁸ Legal Expense Fund Regulations, Regs. 3.5, 3.6, 3.8.

²⁹ An in-person review of the terminal made available to the public at the Legislative Resource Center revealed no fund established and no disclosures made either by or on behalf of Rep. Van Hollen during the relevant time.

³⁰ See U.S. H.R., Calendar Year 2013 Financial Disclosure Statement of Representative Chris Van Hollen (May 13, 2014) (answering no to question VI); U.S. H.R., Calendar Year 2012 Financial Disclosure Statement of Representative Chris Van Hollen (May 13, 2013) (same); U.S. H.R., Calendar Year 2011 Financial Disclosure Statement of Representative Chris Van Hollen (May 15, 2012) (same).

³¹ 52 U.S.C. §§ 30101(8)(A)(i)-(ii); see also 11 C.F.R. § 100.54.

contribution³² and the FEC has explained that the provision of *pro bono* legal services (for any non-exempt purpose) is a contribution in the amount of the compensation paid to the employees that provided the services.³³ Payment by a third party of one's legal expenses and direct receipt of *pro bono* legal service thus may constitute a contribution under FECA. In that event, FECA establishes further limits. Both for-profit and nonprofit corporations are prohibited from making any contributions to candidates for federal office,³⁴ while partnerships and individuals may not contribute more than a certain amount (currently \$2,700 per election) to a candidate for federal office.³⁵ FECA also mandates the disclosure and reporting of contributions.³⁶

In the present case, as Democracy 21 is a corporation, it would be prohibited from contributing to Representative Van Hollen as a candidate, while Mr. Simon and WilmerHale would be subject to contribution limits. In any event, a review of Representative Van Hollen's contribution disclosures from 2011 to 2014 on the FEC's website³⁷ reveals no disclosed contributions from Democracy 21, Mr. Simon, or WilmerHale.³⁸

The *pro bono* legal services provided to Representative Van Hollen in this matter, whether interpreted as gifts or contributions, were required to be disclosed and subject to specific contribution limits. Representative Van Hollen failed to make any of these compulsory disclosures for the years in which these services were provided. Accordingly, Cause of Action requests that the House Ethics Committee immediately open an investigation to determine whether and to what extent Representative Van Hollen has breached House Rules.

Sincerely,


DANIEL Z. EPSTEIN
EXECUTIVE DIRECTOR

cc:

U.S. House Committee on Ethics Staff:
Thomas Rust, Staff Director
Clifford Stoddard, Counsel to the Chairman
Daniel Taylor, Counsel to the Ranking Member

³² 11 C.F.R. § 100.52(d).

³³ See Fed. Election Comm'n, Advisory Op. 2006-22 at 3-5 (Sept. 18, 2006). FEC regulations exempt from the definition of contribution legal services provided solely to ensure compliance with federal election law, 11 C.F.R. § 100.86, but such an exemption is not applicable in this case.

³⁴ 11 C.F.R. § 114.2(b)(1).

³⁵ *Id.* §§ 110.1(b), (e); see also Fed. Election Comm'n, Contributions (updated Feb. 2015), <http://goo.gl/yOMw4E>; Fed. Election Comm'n, Partnerships Brochure at 2-3 (updated Apr. 2014), available at <http://goo.gl/phCVm9>.

³⁶ 52 U.S.C. § 30104.

³⁷ Fed. Election Comm'n, Reports Image Index for Committee ID: C00366096, Van Hollen for Congress, <http://goo.gl/OkNZsq> (last visited Apr. 16, 2015).

³⁸ The names of various WilmerHale partners and employees are in Van Hollen's disclosures, but those appear to be personal contributions and not a proper accounting for the in-kind value of *pro bono* legal services. Roger Michael Witten, the WilmerHale named counsel on Representative Van Hollen's court filings, does not appear in the disclosures.

Exhibit 12

17044420113



FEDERAL ELECTION COMMISSION
Washington, DC 20463

September 18, 2006

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

ADVISORY OPINION 2006-22

Andrius R. Kontrimas, Esquire
Jenkins & Gilchrist
1401 McKinney
Suite 2600
Houston, Texas 77010-4034

Dear Mr. Kontrimas:

We are responding to your advisory opinion request on behalf of Wallace for Congress ("the Wallace Committee") concerning the application of the Federal Election Campaign Act of 1971, as amended (the "Act"), and Commission regulations to an incorporated law firm's preparation of an *amicus curiae* brief on behalf of the Wallace Committee, free of charge, in a court case addressing the ballot eligibility of the Republican nominee in Mr. Wallace's congressional district. Specifically, you ask whether the value of the legal services provided free of charge by your law firm would be an in-kind contribution to the Wallace Committee.

The Commission concludes that the law firm's provision of free legal services would be a prohibited corporate contribution to the Wallace Committee.

Background

The facts presented in this advisory opinion are based on your letter received on July 21, 2006, and public records, including the Wallace Committee's 2006 July Quarterly Report filed with the Commission and the Wallace Committee's website.

The Wallace Committee is the principal campaign committee of David G. Wallace, who was seeking election to the House of Representatives from the 22nd congressional district of Texas. You are the Wallace Committee's treasurer. You are also a shareholder in the incorporated law firm retained by the Wallace Committee to draft the *amicus* brief, Jenkins & Gilchrist (the "Firm").

1. The court case

On March 7, 2006, the incumbent Representative, Tom DeLay, won the Republican primary for the House seat for the 22nd congressional district. On April 3, 2006, after declaring his intention to move to Virginia, Representative Delay announced that he would retire from the House, effective in early June, and would not seek re-election. After receiving a letter from Representative DeLay asserting his ineligibility to remain on the ballot because of his move to Virginia, the Chair of the Republican Party of Texas declared in writing, on June 7, that Representative DeLay was no longer eligible to be the party's nominee. When a nominee is no longer eligible to be the nominee, Texas law allows the Republican executive committee for the affected congressional district to select a replacement candidate for the general election ballot.

In anticipation of the withdrawal of Mr. DeLay's name from the ballot, Mr. Wallace filed his Statement of Candidacy with the Commission on April 17, 2006. The Wallace Committee filed its Statement of Organization on April 24, 2006.

On June 8, 2006, the Texas Democratic Party filed a lawsuit in State court, contesting the declaration of Mr. DeLay's ineligibility on constitutional grounds. *See Texas Democratic Party v. Benkiser*, No. D-1-GN-06-002089 (Dist. Ct. Travis County, Texas, June 8, 2006). After removal of the case to Federal court, the U.S. District Court for the Western District of Texas held the declaration of ineligibility to be invalid, and permanently enjoined the Republican Party of Texas from certifying to the Texas Secretary of State any candidate other than Mr. DeLay to appear as the Republican candidate on the general election ballot. *See Texas Democratic Party v. Benkiser*, __ F. Supp. __, 2006 WL 1851295 (W.D. Tex. July 6, 2006). The U.S. Court of Appeals for the Fifth Circuit upheld the District Court decision and the injunction. *See Texas Democratic Party v. Benkiser*, __ F.3d __, 2006 WL 2170160 (5th Cir. August 3, 2006).¹ On August 9, 2006, Mr. Wallace announced that he intended to qualify, under Texas law, as a "write-in candidate" for the House seat in the 2006 general election.² On August 21, 2006, Mr. Wallace announced that he no longer intended to pursue a write-in candidacy and withdrew from the House race.³

If the Court of Appeals' injunction had been stayed and the declaration of Mr. DeLay's ineligibility had been given effect, the Republican Party executive committee for the 22nd congressional district, composed of precinct chairs, would have met to select a replacement House candidate for the November ballot. Mr. Wallace was a contender for the nomination.

¹ On August 7, 2006, Justice Antonin Scalia of the U.S. Supreme Court denied a request for a stay of the injunction, and the Republican Party of Texas reportedly considers its legal options to be "exhausted." Bob Dunn, *Scalia Denies GOP's Last Stab At Dropping DeLay From Ballot*, FortBendNow, August 7, 2006, available at <http://www.fortbendnow.com/news/1627/scalia-denies-gops-last-stab-at-having-delay-declared-ineligible-for-ballot> (last visited August 21, 2006).

² See Kristen Mack, *Sugar Land Mayor To Be Write-in For DeLay's Seat*, Houston Chronicle, August 10, 2006, available at <http://www.chron.com/disp/story.mpl/nb/fortbend/news/4105411.html> (last visited August 21, 2006).

³ See Eric Hanson and Ruth Rendon, *Sugar Land Mayor Quits District 22 Race*, Houston Chronicle, August 22, 2006, available at <http://www.chron.com/disp/story.mpl/headline/metro/4132280.html> (last visited August 22, 2006).

2. *The Firm's services*

On July 11, 2006, the Firm entered into a legal representation agreement with the Wallace Committee. The Firm agreed to submit an *amicus curiae* brief to the Fifth Circuit Court of Appeals supporting reversal of the District Court judgment on constitutional grounds. The agreement specified that the Firm would seek an advisory opinion from the Commission as to whether the preparation of the brief without charge would be a contribution from the Firm to the Wallace Committee. If the Commission determined that it would be a contribution, the Wallace Committee would pay the Firm "a normal fee" for such services. The Wallace Committee agreed, in any event, to pay all routine expenses, such as photocopies and postage. You and the other Firm employees who provided the services will be compensated as usual by the Firm for your work. The Wallace Committee's *amicus* brief was filed on July 21, 2006.⁴

Question Presented

*Would the Firm's preparation, free of charge, of an amicus brief on behalf of the Wallace Committee be a contribution to the Committee, where the brief sought reversal of a Federal court judgment that declared the current nominee of the candidate's party eligible for the ballot and thereby precluded Mr. Wallace's eligibility for the party's nomination?*⁵

Legal Analysis and Conclusions

Yes, the Firm's preparation of an *amicus* brief free of charge for the Wallace Committee would be a contribution to the Wallace Committee and, because the Firm is a corporation, would be impermissible.

Corporations are prohibited from making any "contribution or expenditure." 2 U.S.C. 441b(a); 11 CFR 114.2(b). The Act defines the term "contribution" in two ways. First, the Act defines "contribution" to include "any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office." 2 U.S.C. 431(8)(A)(i). Second, the Act defines "contribution" to include the "payment by any person of compensation for the personal services of another person which are rendered to a political committee without charge *for any purpose*." 2 U.S.C. 431(8)(A)(ii) (emphasis added); see also 2 U.S.C. 441b(b)(2). The situation presented here implicates the second definition.

Similarly, Commission regulations provide that, with some exceptions, the "payment by any person of compensation for the personal services of another person if those services are

⁴ Under the Firm's normal billing procedures, bills for work performed in July are processed in August and sent in September, with payment expected within 30 days of the client's receipt of the bill. Hence, the request pertains to future activity by the Wallace Committee. See 11 CFR 112.1(b).

⁵ Your advisory opinion request included a second question, concerning the possible establishment of a legal expense fund to pay for the Firm's services. You withdrew this question from Commission consideration on August 23, 2006, and explained that the Wallace Committee would prefer to pay for the legal services out of its available cash on hand, rather than have Mr. Wallace establish a legal expense fund.

rendered without charge to a political committee *for any purpose*" is a contribution to the political committee. 11 CFR 100.54 (emphasis added); *see also* 11 CFR 114.2(b)(1). The Firm's provision of free legal services to the Wallace Committee would not come within the exception to the definition of "contribution" for legal services provided solely to ensure compliance with the Act or the presidential campaign funding provisions of Title 26. *See* 2 U.S.C. 431(8)(B)(viii)(II); 11 CFR 100.86 and 114.1(a)(2)(vii). Nor would they come within the exception for services provided without compensation by an individual volunteer on behalf of a candidate or political committee. *See* 2 U.S.C. 431(8)(B)(i); 11 CFR 100.74.

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You contend that Mr. Wallace was not a candidate but merely a potential candidate when the Firm rendered its legal services to the Wallace Committee, because no district committee selection process had yet been scheduled. Under the Act and Commission regulations, a "candidate" is "an individual who seeks nomination for election, or election, to Federal office." 2 U.S.C. 431(2); 11 CFR 100.3(a). An individual becomes a candidate for Federal office when that individual, or a person acting on the candidate's behalf and with his or her consent, "has received contributions aggregating in excess of \$5,000 or made expenditures aggregating in excess of \$5,000." 11 CFR 100.3(a)(1) and (2); *see* 2 U.S.C. 431(2)(A) and (B). According to its 2006 July Quarterly Report, the Wallace Committee raised over \$200,000 in contributions before July 1 and spent over \$45,000, including \$20,000 for a "radio buy." Moreover, as of August 1, 2006, its website, davidwallaceforcongress.com, made clear that Mr. Wallace considered himself a candidate for election to the House in 2006. For example, the website (i) asked readers to contact precinct chairs in support of his nomination; (ii) attacked the Democratic general election candidate in a number of articles; (iii) posted a committee radio ad expressly advocating Mr. Wallace's election and the Democratic candidate's defeat; and (iv) noted that, prior to July 1, Mr. Wallace received commitments for \$800,000 in contributions, over and above the amounts already received.⁶ Thus, Mr. Wallace was a Federal candidate at the time the Firm rendered its services, and the Wallace Committee, as Mr. Wallace's principal campaign committee, was a political committee. *See* 11 CFR 100.5(d) ("An individual's principal campaign committee . . . becomes a political committee[] when that individual becomes a candidate pursuant to 11 CFR 100.3").

Because the definition of "contribution" under 2 U.S.C. 431(8)(A)(ii) and 11 CFR 100.54 applies to services provided to a political committee "for any purpose" (other than services specifically excepted by the Act and regulations), the Firm's compensation to you and other Firm employees for the preparation of the *amicus* brief free of charge to the Wallace Committee would be a "contribution." Accordingly, the Firm's payment of compensation to you and other Firm personnel for such services would be an impermissible corporate contribution to the Wallace Committee, unless the Wallace Committee pays the usual and normal charge for such services in a timely manner. *See* 11 CFR 100.52(d) and 116.3(b).

⁶ Mr. Wallace's use of a radio ad to publicize his campaign and his statements referring to himself as a candidate indicate that he was well beyond "testing the waters" for a candidacy when the *amicus* brief was prepared and filed with the court. Nevertheless, even if he were treated as a "potential candidate," in the same position as an individual testing the waters, funds received and spent for such purposes are subject to the limitations and prohibitions of the Act, and are contributions and expenditures subject to the Act's reporting requirements if the individual subsequently becomes a candidate. *See* 11 CFR 100.72 and 100.131.

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In Advisory Opinion 1980-4 (Carter/Mondale Presidential Committee), on which you rely in your request, the Commission applied a previous version of 11 CFR 100.54 (11 CFR 100.4(a)(5) (1977)). Although the relevant definition of "contribution" in the Act (2 U.S.C. 431(8)(A)(ii)) was amended in early 1980 to include compensation paid by one person for personal services of another that are rendered to a political committee without charge "for any purpose," *see* Pub. L. No. 96-187, Title I, § 101, Jan. 8, 1980, 93 Stat. 1339, the Commission had not yet amended its regulations to reflect the amended statute.⁷ Accordingly, in Advisory Opinion 1980-4, the Commission stated that "Commission regulations indicate that contributions in the form of compensation occur when the compensated services consist of 'political activity,' *i.e.*, services engaged in for the purpose of influencing an election to Federal office." The Commission concluded that a contribution did not result in Advisory Opinion 1980-4 because the compensation paid for legal services that enabled the political committee in question to present a defense to a complaint alleging violations outside the purview of the Act, as distinguished from permitting compensated personnel to engage in the political committee's political activities.

The Commission's conclusion here, by contrast, rests on the implementation of the Act as reflected in current Commission regulations, which specify that a contribution results from the "payment by any person of compensation for the personal services of another person if those services are rendered without charge to a political committee *for any purpose*." 11 CFR 100.54 (emphasis added). The Commission need not and does not address whether the legal services described by the requestor are for the purpose of influencing the election of any person to Federal office. Due to material differences between the previous and current understanding of the Act and between the versions of Commission regulations, the Commission determines that Advisory Opinion 1980-4 does not apply here.

This response constitutes an advisory opinion concerning the application of the Act and Commission regulations to the specific transaction or activity set forth in your request. *See* 2 U.S.C. 437f. The Commission emphasizes that, if there is a change in any of the facts or assumptions presented, and such facts or assumptions are material to a conclusion presented in this advisory opinion, then the requestor may not rely on that conclusion as support for its proposed activity.

Sincerely,

(signed)

Michael E. Toner
Chairman

Enclosure (Advisory Opinion 1980-4)

⁷ Advisory Opinion 1980-4 was issued on February 1, 1980. The amended regulation, which is also the current regulation, became effective on April 1, 1980, and appeared at 11 CFR 100.7(a)(3). *See* 45 Fed. Reg. 21211 (Apr. 1, 1980). The Commission re-numbered the regulation as 11 CFR 100.54 after enactment of the Bipartisan Campaign Reform Act of 2002, Pub. L. No. 107-155, 116 Stat. 81 (2002). *See* 67 Fed. Reg. 50582, 50586-7 (Aug. 5, 2002).

Exhibit 13

170044420119



FEDERAL ELECTION COMMISSION
Washington, DC 20463

April 27, 1990

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

ADVISORY OPINION 1990-5

Margaret R. Mueller
8848 Music Street
Novelty, Ohio 44072

Dear Ms. Mueller:

This responds to your letters dated March 12, 1990, and March 24, 1990, requesting an advisory opinion concerning the application of the Federal Election Campaign Act of 1971, as amended ("the Act"), and Commission regulations to publication of a newsletter discussing public policy issues during your campaign for Federal office.

You state that you are a Republican candidate for the U.S. House of Representatives in the 11th District of Ohio, and that you also ran for that seat in 1986 and 1988.^{1/} Since March of 1989, Music Street Publishing Company, which you own, has been publishing a monthly newsletter called "SPEAKOUT!" You state the newsletter is intended to provide a non-partisan forum for persons whom you met during the 1988 campaign for Congress to speak out on community and governmental problems and issues of general public interest.

Articles appearing in the newsletter have included opinion pieces (including many written by you) dealing with different issues of public concern, such as drug use, taxes, toxic waste cleanup and other environmental matters, and, in particular, Congressional term limitation. Some articles specifically refer to problems in the 11th Congressional District or the northeast corner of Ohio.^{2/} You write monthly editorials expressing your views that are intended to encourage differing responses. Newsletters also contain humor pieces, lists of little known facts, investment advice and other miscellaneous information, and most issues have also included a notice of a SPEAKOUT! meeting to be held each month.

The newsletter has contained several articles regarding Congressional term limitation that were reprinted from other sources and headlined with the title of an organization named "Coalition to End the Permanent Congress."^{3/} You have also published an article soliciting donations to the

group and an editorial written by you endorsing the group's positions on issues. You say you wish to continue to use the name of the organization in the newsletter.

You state that newsletter publication has been funded by your personal funds and through the sale of advertisements.^{4/} According to the newsletters' masthead, a subscription may be purchased at a price of \$20 for 12 monthly issues.

You say you "want to keep the paper going because it is just catching on after a year," and that you would continue publishing the newsletter regardless of whether you are elected to Congress. You state that, during the present campaign, you will "keep it nonpartisan and probably emphasize local and state issues so the paper does not get clouded with federal issues which might be related to my running." It appears, therefore, that you wish to continue your publication as an activity unrelated to the campaign.

You ask whether you may continue publishing the newsletter during your 1990 campaign for Congress. Your request raises the question of whether the Commission considers operating expenses of publishing your newsletter to be expenditures for the purpose of influencing a Federal election under the Act and, therefore, whether payments for such expenses by any person constitute contributions to a Federal candidate under the Act. 2 U.S.C. 431(8)(A)(i) and 431(9)(A)(i); 11 CFR 100.7(a)(1) and 100.8(a)(1).^{5/} Your inquiry presents the Commission with the difficult task of reconciling your status as a candidate for Federal office with the assertedly nonpartisan nature of your proposed newsletter publication and distribution activity.

The Commission has frequently considered whether particular activities involving the participation of a Federal candidate, or communications referring to a Federal candidate, result in a contribution to or expenditure on behalf of such a candidate under the Act. The Commission has determined that financing such activities will result in a contribution to or expenditure on behalf of a candidate if the activities involve (i) the solicitation, making or acceptance of contributions to the candidate's campaign, or (ii) communications expressly advocating the nomination, election or defeat of any candidate. Advisory Opinions 1988-27, 1986-37, 1986-26, 1982-56, 1981-37, 1980-22, 1978-56, 1978-15, 1977-54 and 1977-42. The Commission has also indicated that the absence of solicitations for contributions or express advocacy regarding candidates will not preclude a determination that an activity is "campaign-related." Advisory Opinions 1988-27, 1986-37, 1986-26, 1984-13 and 1983-12.

In prior opinions, the Commission has concluded that contributions or expenditures for Federal candidates would not result in circumstances involving candidates serving as chairpersons of political, charitable and issue advocacy organizations (Advisory Opinions 1978-56, 1978-15, and 1977-54, respectively), a candidate appearance endorsing a candidate for local office in television advertisements (Advisory Opinion 1982-56), and a candidate hosting a radio public affairs program (Advisory Opinion 1977-42). The Commission has rarely faced the question of whether candidate involvement is campaign-related, however, in the factual context of activity sponsored or funded by the candidate personally.^{6/}

In Advisory Opinion 1983-12, the Commission reviewed a group's proposal to produce and air television commercials that included footage of particular U.S. Senators, comments about a

Senator's record in office and a message congratulating the citizens of the appropriate state for having elected their Senator. The Commission observed in that opinion:

... the Commission has recognized that even though certain appearances and activities by candidates may have election related aspects and may indirectly benefit their election campaigns, payments by non-political committee entities to finance such activity will not necessarily be deemed to be for the purpose of influencing an election.

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The Commission distinguished its prior opinions to conclude, however, that the portion of the proposed activity involving participation of candidates or their campaigns in providing the film footage would render advertisements produced and aired in cooperation with the candidates contributions for the purpose of influencing those candidates' elections under the Act. Several factual elements presented in that request were significant in the Commission reaching its conclusion: the requestor was a political committee actively engaged in making contributions to or expenditures on behalf of candidates; the content of the proposed advertising messages made reference to the Senators' previous election and the voters' role in electing a praiseworthy officeholder; the ads were to be run during the time period preceding the 1984 elections; and the activity in question "[did] not appear to have any specific and significant non-election related aspects that might distinguish it from election influencing activity." Compare Advisory Opinion 1984-13 (Congressional candidates of one political party invited to speak at a meeting of an incorporated trade association).

The significance of candidate involvement in activity for which an inference of campaign purpose could be drawn was also noted by the Commission in Advisory Opinion 1988-22, involving proposed newsletter activities by a partisan organization. The Commission described the following legal consequences of activity undertaken in coordination with a candidate's campaign:

If statements, comments or references regarding clearly identified candidates appear in the newsletter and are made with the cooperation, consultation or prior consent of, or at the request or suggestion of, the candidates or their agents, regardless of whether such references contain "express advocacy" or solicitations for contributions, then the payment for allocable costs incurred in making the communications will constitute "expenditures" by [the organization] and "in-kind contributions" to the identified candidates. 2 U.S.C. 441a(a)(7)(B) ...

As presented by your proposed and sample newsletters, reportable "in-kind contributions" to candidates would include those instances where, in coordination with candidates, newsletters contained substantive statements generally favoring a candidate or criticizing his opponent or contained references to a candidate's campaign events in a scheduling feature. The Commission bases its conclusion on the presumption that the financing of a communication to the general public, not within the "press exemption," that discusses or mentions a candidate in an election-related context and is undertaken in coordination with the candidate or his campaign is "for the purpose of influencing a federal election." See Advisory

Opinion 1983-12. Such a communication made in coordination with a candidate presumptively confers "something of value" received by the candidate so as to constitute an attributable "contribution," even though the value of the benefit so conferred may be relatively minor. Given the nature and purposes of your organization as described in your request, it is unlikely that such a presumption of a "purpose of influencing a Federal election" could be rebutted with reference to newsletter activity undertaken in coordination with Federal candidates. Compare Advisory Opinions 1982-56 and 1978-56.

Here, publication of the newsletter has been originated, sponsored, implemented and funded by you, a current candidate for Federal office. SPEAKOUT! was apparently inspired by your experiences as a previous candidate for Congress. It is sent primarily to persons whom you encountered during your prior campaign, many of whom may be potential supporters of your candidacy. Persons involved in your campaign for Congress are also apparently involved in publishing your newsletter. The contents of the newsletters include articles concerning public policy issues that may broadly be related to local and national political concerns, including the makeup of Congress. Therefore, any reference to or discussion of your candidacy or campaign in the newsletter, or presentation of policy issues or opinions closely associated with you or your campaign, would be inevitably perceived by readers as promoting your candidacy, and viewed by the Commission as election-related and subject to the Act.

Editions of the newsletters that you have distributed thus far do not mention your candidacy or campaign for Congress, and, taken alone, may not reveal an apparent or objectively recognizable "purpose to influence" your Congressional race or any particular election to Federal office.⁷⁷ The content of the newsletters does suggest other significant purposes of informing the public about current issues of public interest and encouraging discussion of such issues.⁸¹ Although these purposes are not inherently election-related activity and publication of your newsletter is an ongoing enterprise, continued publication of the newsletter since you have become a candidate could potentially be used to advance your candidacy.

The Commission concludes that the expenses incurred in the publication and distribution of your proposed newsletters would be considered expenditures for the purpose of influencing your election to Congress if: (1) direct or indirect reference is made to the candidacy, campaign or qualifications for public office of you or your opponent; (2) articles or editorials are published referring to your views on public policy issues, or those of your opponent, or referring to issues raised in the campaign, whether written by you or anyone else;⁹¹ or (3) distribution of the newsletter is expanded significantly beyond its present audience, or in any manner that otherwise indicates utilization of the newsletter as a campaign communication. The Commission concludes that each edition of the newsletter should be viewed separately and in its entirety in determining whether a newsletter would be considered an expenditure for your campaign. Any campaign-related content within a particular edition would render expenses of publishing that edition a campaign expenditure.¹⁰⁷

Publication and distribution of issue content newsletters on an ongoing basis, and absent the elements described above, would not be viewed as conferring recognizable benefit or value upon your campaign for Congress sufficient to invoke the jurisdiction of the Act. The Commission

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would not necessarily view continued distribution of this type of newsletter as campaign-related activity, constituting expenditures under the Act, however, simply because you have been identified with its creation or serve as its editor, or because your name continues to be identified on its masthead as its editor. Advisory Opinions 1978-56, 1978-15 and 1977-54. See also Advisory Opinion 1985-38.

You may, of course, publish campaign-related editions of the newsletter as an activity of the campaign. Your committee would then assume the costs for that newsletter edition, either directly making the payments to the providers of goods and services for the newsletter or paying the Music Street Publishing Company for the expenses in publishing that issue. In order to avoid a prohibited corporate contribution by the publishing company, the committee must make its payments to the publishing company within a commercially reasonable time. Payments for the production and circulation of the newsletter would be operating expenditures of your campaign committee and reported as such. In addition, payments for advertising space in campaign-related newsletters would be contributions to the campaign and, if made from a corporate source, would be prohibited. 2 U.S.C. 441b; 11 CFR 114.2. See Advisory Opinion 1985-39.

This response constitutes an advisory opinion concerning application of the Act or regulations prescribed by the Commission to the specific transaction or activity set forth in your request. See 2 U.S.C. 437f.

Sincerely,

(signed)

Lee Ann Elliott
Chairman for the Federal Election Commission

Enclosures (AOs 1988-27, 1988-22, 1986-37, 1986-26, 1985-39, 1985-38, 1984-13, 1983-12, 1982-56, 1981-37, 1981-3, 1980-109, 1980-22, 1978-72, 1978-56, 1978-46, 1978-15, 1977-54, and 1977-42)

1/ Your Statement of Candidacy and a Statement of Organization for the 1990 election campaign were received by the Clerk of the House on March 27, 1990. It appears from your filings that your principal campaign committee for the 1986 and 1988 elections will continue to function as your principal campaign committee for 1990.

2/ For example, the February, 1990, issue contains an article on the growing of marijuana in the district entitled "11th District Shocker," and a questionnaire which includes a question making reference to toxic waste dumps in the 11th District.

3/ You describe the organization, of which you are a board member, as a bipartisan group advocating the limiting of Congressional tenure to 12 years, outlawing political action committees and cutting the franking privilege. You state that the Coalition "has no money to support any candidate" but "would favor anyone who would End the Permanent Congress." The

Commission assumes from your description that the Coalition is not engaged in supporting the election or defeat of specific Federal candidates and is not a "political committee" under the Act.

4/ You state that "no big corporations" have placed ads and that the advertisers have been small businesses. A review of the newsletters submitted by you indicates that a number of advertisements have been paid for by corporations.

5/ The publication of a newsletter or small newspaper raises the issue of application of the exemption from treatment as an expenditure or contribution for newspapers, magazines or other regularly published periodicals ("press exemption"). 2 U.S.C. 431(9)(B)(i); 11 CFR 100.7(b)(2) and 100.8(b)(2). See Advisory Opinion 1980-109. The express statutory language of the exemption, however, excludes publications owned by the candidate. By its own terms, the "press exemption" would not be applicable to your newsletter under the facts you have presented.

6/ Advisory Opinion 1978-72 involved a candidate who proposed to publish and sell pamphlets, on a nationwide basis, that set out his views on several philosophical questions. The Commission concluded that receipts from sales of the pamphlets would not constitute contributions under the Act, nor would payments by the candidate be expenditures, as long as the contents of the pamphlets, and advertising for them, did not include solicitations for the candidate's campaign or express advocacy of the election or defeat of any clearly identified candidate. The Commission viewed receipts from the endeavor as "earned business income," and noted the requestor's assertion that "very little of the proceeds or political effect would be applicable to [his] local campaign."

7/ You submitted a copy of a March, 1990, issue which was printed but not distributed. This issue contained a front page article announcing your 1990 candidacy for Congress and featuring your picture, and a full-page article written by your husband advocating your candidacy. The article announcing your candidacy contains a statement of your platform that refers to the Coalition to End the Permanent Congress. You state that you had 10,000 copies of this issue printed, but that you sent none out and threw them away. Instead, you sent out an issue that contained no references to your candidacy.

8/ Disseminating information and expressing viewpoints about issues of public policy and community interest are, of course, strongly protected elements of free speech under the First Amendment. Buckley v. Valeo, 424 U.S. 1, 42, n. 50 (1976). The U.S. Supreme Court has upheld the jurisdiction of the FECA in regulating the financing of similar speech when engaged in by candidates for Federal office, or groups supporting Federal candidates, "for the purpose of influencing a Federal election." 2 U.S.C. 431(9)(A)(i); see Buckley, supra, at 46-7, n. 53. Although the Commission cannot ignore a campaign-related purpose for types of activity for which no other purpose is plausible, neither can it impute such purpose to Constitutionally protected activity lacking an identifiable nexus to support of a candidate.

9/ For example, publication of articles or editorials about the issue of Congressional term limitation or related to the Coalition to End the Permanent Congress would be considered campaign-related, due to your focus upon that issue in your campaign for Congress and your candidacy's association with that organization.

10/ The Commission considered an alternative analysis under which only those portions of a particular newsletter issue that might be viewed as campaign-related would be allocable as a campaign expenditure. The Commission distinguished that allocation approach, due to your involvement in the entirety of the newsletter operation. Compare Advisory Opinions 1988-22, 1981-3 and 1978-46 (publishing of newsletters by partisan organization or party committees).

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Exhibit 14

17044420127

Court Victory One Part of Broader Strategy to Increase Disclosure, Transparency, and Accountability in Political System

Apr 2, 2012 | Washington, DC

Today Maryland Congressman Chris Van Hollen issued the following statement on the U.S. District Court for the District of Columbia ruling in Van Hollen v. Federal Election Commission:

"This ruling creates a ray of sunshine in a sea of secret, outside spending and represents one part of our broader strategy to increase disclosure and restore the integrity of the American electoral process. I will continue to press for greater donor disclosure – including passage of the DISCLOSE 2012 Act – until we restore transparency and accountability to our democracy."

BACKGROUND

In the midst of an election cycle that has witnessed an unprecedented amount of outside spending by anonymous donors on Federal elections, District Court Judge Amy Jackson's decision last Friday in Van Hollen v. FEC creates a ray of sunshine for millions of Americans concerned about the integrity of the American electoral process. By upholding Congressman Van Hollen's challenge to the existing FEC regulations, Judge Jackson found that the FEC had severely watered down existing legal requirements to disclose donors in campaign-related ads, stating that "...Congress did not delegate authority to the FEC to narrow the disclosure requirement through agency rulemaking...." Judge Jackson's ruling restores the statutory requirement that provides greater disclosure of the donors who provide funding for electioneering communications. If this standard had been adhered to, much of the more than \$135 million in secret contributions that funded expenditures in the 2010 congressional races would have been disclosed to the public.

~~Filed last year, this lawsuit represents one part of Congressman Van Hollen's multi-pronged effort to challenge the 2010 Citizens United Supreme Court decision that opened the floodgates to corporate spending in federal campaigns. Congressman Van Hollen's case against the FEC focused on its interpretation that considerably relaxed the campaign finance disclosure requirements of donors who contribute to campaign ads described in the McCain-Feingold Act as "electioneering communications." These disclosure requirements apply to nonprofit corporations like the Chamber of Commerce and Crossroads GPS, and other groups on the left and right that conduct significant outside spending on campaigns to influence federal elections but fail to provide donor information.~~

Existing donor disclosure requirements in the McCain-Feingold Act require the disclosure of the identity of the person who makes contributions to the spender who is making the expenditure. The FEC, in its subsequent interpretation, weakened the requirement to disclose only donors when the donation "was made for the purpose of furthering electioneering communications" by the spender.

This is a restriction on contribution disclosure that is found nowhere in the statute. Congress did not include a "state of mind" or "purpose" condition tied to "furthering" electioneering communications in the relevant McCain-Feingold disclosure provision. The FEC, by adding this requirement in its regulations, has contravened the plain language and meaning of the statute.

Last year, Congressman Van Hollen petitioned the FEC to challenge other regulations that govern "independent expenditures." The petition pointed out that these regulations were similarly contrary to the law and had similarly undermined the existing statutory contribution disclosure requirements. Congressman Van Hollen will confer with his counsels to determine whether to file a lawsuit regarding the FEC regulations that limit disclosure on "independent expenditure" ads in the near future.

In 2010, in response to the Citizens United Supreme Court decision, Congressman Van Hollen introduced the DISCLOSE Act to address the problem of massive secret campaign donations flooding our electoral system. The House passed the DISCLOSE Act. However, unfortunately, it fell one vote short in the Senate of the 60 votes required to end a filibuster. Earlier this year, Congressman Van Hollen introduced H.R. 4010, the DISCLOSE 2012 Act, which would enhance donor disclosure. H.R. 4010 currently has 160 cosponsors.

The disclosure of campaign-donor information is essential to our democracy. The Supreme Court has determined that corporations may engage in these expenditures. However, it did not intend for them to do so under the cover of darkness. Congressman Van Hollen will continue to press for greater donor disclosure in the Courts and in Congress until we restore the much needed sunlight.

Issues: Government Reform

Exhibit 15

17044420130

Van Hollen v. FEC: U.S. Court of Appeals for the District of Columbia Circuit Van Hollen's Petition for Rehearing En Banc

Mar 4, 2016

Rep. Christopher Van Hollen asked the full D.C. Circuit Court of Appeals to hear his challenge to a Federal Election Commission rule allowing groups running political ads to avoid disclosure requirements passed by the McCain-Feingold Act.

The FEC rule under challenge narrowed the law to require groups to report only those donors who "earmarked" their contributions for electioneering communications (political ads) –effectively making donor disclosure purely optional. Predictably, its adoption led to the rise of dark money, as politically-active 501(c)(4) groups such as Americans for Prosperity and Patriot Majority USA took advantage of the loophole to avoid disclosing their big contributors.

The petition filed today gives all of the judges of the Court of Appeals the opportunity to reconsider an earlier ruling of a three-judge panel of the Court, which overturned the district court's decision that the FEC's rule was "arbitrary, capricious and contrary to law."

Lawyers for the Campaign Legal Center, Democracy 21 and Public Citizen are part of Rep. Van Hollen's pro bono legal team, led by Catherine Carroll of the law firm WilmerHale.

PDF DOWNLOAD (HTTP://WWW.CAMPAIGNLEGALCENTER.ORG/SITES/DEFAULT/FILES/2016_03_04%20%20VAN%20HOLLEN%20PETITION%20FOR%20REHEARING%20EN%20BANC_%20153238395%29_%201%2029.PDF)